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JOINT APPENDIX

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1974

No. 73-1933

UNITED STATES OF AMERICA,
Appellant,

v.

CITIZENS AND SOUTHERN NATIONAL BANK, et al.

On Appeal from the United States District Court for the Northern District of Georgia

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JURISDICTIONAL STATEMENT FILED JUNE 24, 1974

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JOINT APPENDIX

INDEX

VOLUME I

	Page
Relevant Docket Entries	1
Complaint by the United States Filed November 2, 1971	9

Answer to Complaint Filed by the Defendants May 5, 1972 24

Transcript of Proceedings Held Before the Hon. Charles A. Moye, Jr., United States District Judge for the Northern District of Georgia Commencing September 25, 1972:

Appearances [2] 45

Testimony of W. D. Padgett—
Direct examination [7] 49
Cross-examination [74] 89

Testimony of William Farr, III—
Direct examination [85] 96
Cross-examination [123] 118

Testimony of Herbert Leonard Megar—
Direct examination [151] 135
Cross-examination [161] 142
Redirect examination [171] 148

Transcript of Proceedings Held Before the Hon. Charles A. Moye, Jr., United States District Judge for the Northern District of Georgia commencing September 26, 1972:

Testimony of James A. Parker—
Direct examination [180] 151
Cross-examination [227] 178
Redirect examination [245] 188

Testimony of Charles B. Ginden—
Direct examination [256] 195
Cross-examination [296] 219
Redirect examination [309] 226

Testimony of Warren Jackson—
Direct examination [312] 228
Cross-examination [352] 251

Transcript of Proceedings Held Before the Hon. Charles A. Moye, Jr., United States District Judge for the Northern District of Georgia commencing September 27, 1972:

Testimony of Warren Woolsey—
Direct examination [361] 257
Cross-examination [408] 284
Redirect examination [424] 292

Testimony of Samuel L. Skogstad—
Direct examination [425] 293
Cross-examination [426] 294
Redirect examination [476] 322
Recross-examination [494] 333

VOLUME II

Testimony of Mills B. Lane—
Direct examination [508] 343
Cross-examination [539] 361
Redirect examination [562] 374

Transcript of Proceedings Held Before the Hon. Charles A Moye, Jr., United States District Judge for the Northern District of Georgia commencing September 28, 1972:

Testimony of Howard S. Starks—
Direct examination [582] 386
Cross-examination [604] 400
Redirect examination [633] 417

Testimony of Joseph Hall—
Direct examination [637] 420
Cross-examination [683] 445
Redirect examination [744] 481

Testimony of Robert Daniel Handley, Jr.—
Direct examination [747] 483
Cross-examination [765] 494
Redirect examination [774] 499
Recross-examination [774] 500

Transcript of Proceedings Held Before the Hon. Charles A. Moye, Jr., United States District Judge for the Northern District of Georgia commencing September 29, 1972:

Testimony of Warren L. Berry—
Direct examination [777] 501
Cross-examination [784] 505
Redirect examination [802] 516

Testimony of Roy B. Holland—
Direct examination [802] 517
Cross-examination [805] 519

Testimony of Hubert Harris—
Direct examination [808] 521
Cross-examination [812] 523

Testimony of Lewis C. Beasley—
Direct examination [815] 524
Cross-examination [821] 528

Testimony of Joseph M. Ream—
Direct examination [824] 530

Testimony of Henry T. Collingsworth, Jr.—
Direct examination [830] 534
Cross-examination [837] 538

Testimony of Gordon B. Trulock, Jr.—
Direct examination [842] 542
Cross-examination [853] 548

Testimony of Ben C. Cook—
Direct examination [854] 548
Cross-examination [859] 552

Testimony of Merrill Autry, Jr.—
Direct examination [862] 554
Cross-examination [865] 555

Testimony of L. R. Gellerstedt, Jr.—
Direct examination [873] 559
Cross-examination [881] 564

Testimony of King Cleveland—
Direct examination [888] 569
Cross-examination [892] 571

Testimony of W. M. Jackson—
Direct examination [895] 573
Cross-examination [905] 579

Testimony of Evans Bruner—
Direct examination [932] 594
Cross-examination [940] 599

VOLUME III

Testimony of J. Mack Robinson—
Direct examination [942] 601
Cross-examination [946] 603

Testimony of Walter Eaves—
Direct examination [953] 607
Cross-examination [956] 609

Testimony of E. D. Dunn—
Direct examination [960] 611

Testimony of Nevins Dennis Baxter—
Direct examination [974] 619
Cross-examination [1004] 636

Depositions:

Warren Lanham Berry—
(GX-198) 671

Dr. William M. Cason—
(GX-199) 4.1-6.13 739

Gus Lockett Connelly—
(GX-200) 4-29.3; 53.13-54.22 741

Thomas E. Cook—
(GX-201) 4-26.4 760

Edward E. Elson—
(GX-202) 10.23-12.7 774

Louis J. Fortuna—
(GX-204) 19.6-22.3 775

Hubert L. Harris—
(GX-206) 4-28.7 778

T. Robert Hazelrig—
(GX-207) 4-28.13 793

Dr. W. Andrew Irvin—
(GX-208) 12.4-12.21; 18.10-18.24 811

Hugh F. Lane—
(GX-209) 812

Alva G. Maxwell—
(GX-211) 4-6.13 848

Dalton F. Scott—
(GX-215) 34.24-36.3 851

Economic Report (Excerpts):

Volume 1—[5-14]
[83-84]
[114 "E"-130 "B"]
[139-147] 852

Volume 2—Exhibits 20, 28, 29, 53, 54, 55, 69 877

Government Exhibits:

GX-33 B E-1
GX-33 C E-5
GX-33 D E-7
GX-33 E E-10
GX-35 ..... E-13
GX-36 ..... E-24
GX-37 ..... E-28
GX-38 ..... E-38
GX-104 ..... E-57
GX-105 ..... E-89
GX-106 A E-113
GX-107 ..... E-121
GX-108 ..... E-122
GX-109 ..... E-123
GX-110 ..... E-124
GX-111 ..... E-125
GX-112 ..... E-126
GX-113 ..... E-127
GX-114 ..... E-128
GX-115 ..... E-132
GX-116 ..... E-133
GX-117 ..... E-134
GX-118 ..... E-135
GX-119 ..... E-137
GX-120 ..... E-139

GX-121 ..... E-140
GX-122 ..... E-141
GX-123 ..... E-142
GX-124 ..... E-143
GX-125 ..... E-145
GX-126 ..... E-146
GX-127 ..... E-147
GX-128 ..... E-148
GX-134 ..... E-153
GX-136 ..... E-155
GX-138 ..... E-156
GX-139 ..... E-158
GX-140 ..... E-160
GX-142 ..... E-161
GX-148 ..... E-162
GX-151 ..... E-164
GX-153 ..... E-165
GX-162 ..... E-166
GX-163 ..... E-172
GX-164 ..... E-198
GX-166 ..... E-204
GX-169 ..... E-206
GX-170 ..... E-215
GX-177 [1-15.6] E-217
GX-177 B E-232
GX-177 D E-235

GX-188 ..... E-240
GX-189 ..... E-241
GX-190 ..... E-242
GX-191 ..... E-243
GX-192 ..... E-249
GX-193 [1-6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 28] ... E-251
GX-194 ..... E-268
GX-216 ..... E-269

Defendants' Exhibits:

DX-94 ..... E-305
DX-113 ..... E-329
DX-125 ..... E-330
DX-152 ..... E-331
DX-266 ..... E-337
DX-267 ..... E-460
DX-268 ..... E-502-2
DX-269 (Sections A, D, F, K and V) E-572
DX-270—Vol. I, GOG 9.27 and GOG 9.6 ..... E-692
Vol. II, GOG 26.01 and 26.011 ..... E-699
DX-277 ..... E-703
DX-278 ..... E-705
DX-300 ..... E-706
DX-301 ..... E-835
DX-302 ..... E-840
DX-310 ..... E-860

DX-311 ..... E-1024
DX-313 ..... E-171.
DX-316 ..... E-1804
DX-317 ..... E-1816
DX-318 ..... E-1822
DX-320 ..... E-1826

Notice of Appeal filed March 25, 1973 ..... E-1841

Order Noting Probable Jurisdiction dated October 29, 1974 ..... E-1842

FEDERAL DEPOSIT INSURANCE CORPORATION

Re: Citizens and Southern Bank of East Point
East Point, Georgia
Application for Consent to Acquisition of
Assets and Assumption of Liability to Pay
Deposits and to Establish Two Branches

BASIS FOR CORPORATION APPROVAL

Citizens and Southern Bank of East Point, East Point, Georgia (East Point Bank), an insured State nonmember bank with total deposits of $27,606,000, has applied, pursuant to Section 18(c) and other provisions of the Federal Deposit Insurance Act, for the Corporation's prior approval to acquire the assets of and to assume the liability to pay deposits made in The Citizens and Southern Bank of North Fulton, Roswell, Georgia (North Fulton Bank), an insured State nonmember bank with total deposits of $7,013,000, and The Citizens and Southern Bank of Sandy Springs, Sandy Springs, Georgia (Sandy Springs Bank), an insured State nonmember bank with total deposits of $21,001,000.1/ Application is made also under Section 18(d) of the Federal Deposit Insurance Act to operate the main, and only, offices of the North Fulton Bank and Sandy Springs Bank as branches of the resulting bank, increasing the number of its authorized offices to five.

Competition. The Citizens and Southern National Bank (C&S National), Savannah, Georgia, is the owner of all the outstanding stock of Citizens and Southern Holding Company (C&S Holding), Savannah, Georgia, which in turn owns 90.25 percent of the stock of East Point Bank, and 5.0 percent each of the stock of North Fulton Bank and Sandy Springs Bank.

The proposed mergers would consolidate in East Point Bank the Fulton County activities of the C&S system outside the City of Atlanta. That system in the aggregate presently controls 30.2 percent of all deposits held at Fulton County commercial bank offices and 28.6 percent of all commercial bank offices in the County, making it the largest banking system in the County.

Because the C&S system has such a large share of the banking resources in Fulton County, proposed new acquisitions of nonaffiliated banks in the same market would raise the most serious competitive problems under the Bank Merger Act as amended and under Section 7 of the Clayton Act. Whether similar considerations require the Corporation to deny the proposed mergers into a C&S subsidiary of two banks in which C&S Holding has only a 5.0 percent stock interest is the question raised by the present applications.

East Point Bank operates a main office and one branch, both located in East Point, a suburban community of about 39,400 population, bordering on Atlanta and about 6 miles south of that city's downtown section. East Point Bank presently holds 1.0 percent of total Fulton County deposits. The two banks it

1/ Deposit data as of June 30, 1971.

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Citizens and Southern Bank of East Point

seeks to merge have offices to the north of the city of Atlanta, where East Point Bank also has an authorized but unopened branch.

North Fulton Bank is a unit bank located at Roswell (population 5,430), about 9 miles north of the city of Atlanta along U.S. Route 19. Established in 1967, it has 0.2 percent of the total commercial bank deposits in Fulton County. Sandy Springs Bank, also a unit bank, is about 8 miles south of Roswell and lies just north of the city of Atlanta. Established in 1959, it controls 0.8 percent of the total commercial bank deposits in Fulton County. The authorized branch of East Point Bank lies approximately midway between Roswell and Sandy Springs. These three offices service a combined area in which six other commercial banks, i.e., the second, third, fourth and fifth largest Atlanta banks as well as two local banks in Roswell, have eight authorized offices.

The banks involved in the proposed mergers do not compete today and never have competed in the past. The two smaller banks were both organized under C&S guidance and direction at a time when Georgia law did not permit C&S National or any other Atlanta bank to branch outside the City of Atlanta. A close working relationship has existed ever since and a majority of the stock in each bank has been held continuously by directors, officers and employees of C&S National, directors, officers and employees of subsidiary banks of C&S Holding, and a number of influential customers who maintain significant banking relationships with one or more such banks. The remaining stock is well dispersed, with no significant blocs held independently of the C&S system. From the inception of both banks, their management has been drawn from the C&S system, C&S National has hired all their employees, and these employees participate fully in the various employee benefits provided by the C&S system. Customers seeking services not provided by Sandy Springs Bank or North Fulton Bank are referred to C&S National, and that bank provides credit services, investment advice and numerous other services for the two smaller banks in much the same manner as it does for its own branches or subsidiary banks. Like the other banks in the C&S system, these 5 percent banks use the C&S name and logo and advertise jointly. More than 40 percent of their respective loan portfolios are loans purchased from C&S National, while their buildings have been leased from other C&S entities. When additional capital became desirable, C&S National subscribed to capital notes of each bank. In short, North Fulton Bank and Sandy Springs Bank have been recognized by the public and the C&S National as part of the C&S system since their inception.

Under these circumstances, the proposed mergers of these two 5 percent banks into a majority-owned C&S subsidiary would not eliminate any existing competition between them or between either bank and any other C&S unit. Such mergers would not alter the existing competitive structure of Fulton County in any way or add to the concentration of banking resources now held by the C&S system. The Corporation also finds that the opening of these two de novo

banks served the convenience and needs of their respective communities and enhanced competition in both areas without increasing the percentage of Fulton County deposits then controlled by the C&S system.

Furthermore, the Corporation finds no reasonable probability that North Fulton Bank or Sandy Springs Bank would become disassociated from the C&S system in the future if the proposed mergers are denied. This conclusion is based in part on the close working relationship described above and the continuing nature of that relationship throughout the history of both banks. The following considerations also appear relevant.

The relationship between each bank and the C&S system has been mutually advantageous; voluntary disaffiliation would run the risk of significant transfers of banking relationships and official staff, and a consequent weakening of the ability of both banks to compete in the new and intensely competitive climate of county-wide branching.

Neither bank has had significant transfers of stock since they were organized, and there is some evidence that persons who bought shares initially expected a merger into C&S National or a C&S majority-owned subsidiary whenever Georgia law was changed to permit it. The virtually unanimous vote of the shareholders of both banks approving the proposed merger into East Point Bank tends to confirm this expectation and attests to the complete acceptance of C&S direction by shareholders as well as directors of the two banks.

In the one recent example of voluntary disaffiliation by a 5 percent bank from the C&S system--out of more than 30 possibilities Statewide--that bank had a very significant bloc of stock held independently of C&S influence and a history of local independence on the part of its board of directors and top management. Its disaffiliation does not increase the likelihood of disaffiliation of North Fulton Bank or Sandy Springs Bank if the present mergers are denied.

If voluntary disaffiliation represents no more than an unlikely possibility, the Corporation finds itself unable to conclude that the proposed mergers would eliminate any significant potential for increased competition between the two banks or between either of them and the rest of the C&S system banks.

The Corporation concludes that the proposed mergers would not be anticompetitive either as to existing or as to potential competition.

Financial and Managerial Resources; Future Prospects. These factors are satisfactory with respect to each of the banks involved and are so projected for the resulting bank.

Convenience and Needs of the Community to be Served. In view of the close working relationship that presently exists between the C&S system and these two banks, consummation of the mergers proposed would not change in any significant way the ability of Sandy Springs Bank or North Fulton Bank to serve the convenience and needs of Fulton County residents.

Citizens and Southern Bank of East Point

With the various factors to be considered weighing neither for approval nor denial, the Corporation concludes that the management decision to restructure the existing C&S system in the manner proposed should be honored. Accordingly, approval of the applications appears to be warranted.

# # # # # #

FEDERAL DEPOSIT INSURANCE CORPORATION

Re: The Citizens and Southern Emory Bank
Atlanta, Georgia
Application for Consent to Acquisition
of Assets and Assumption of Liability
to Pay Deposits and to Establish Five
Branches

BASIS FOR CORPORATION APPROVAL

The Citizens and Southern Emory Bank, Atlanta, Georgia (Emory Bank), an insured State nonmember bank with total deposits of $34,800,000, has applied, pursuant to Section 18(c) and other provisions of the Federal Deposit Insurance Act, for the Corporation's prior approval to acquire the assets of, and to assume the liability to pay deposits made in: The Citizens and Southern Bank of Chamblee, Chamblee, Georgia (Chamblee Bank), an insured State nonmember bank with total deposits of $21,700,000; The Citizens and Southern Park National Bank, Atlanta, Georgia (Park National Bank), which has total deposits of $11,300,000; and The Citizens and Southern South DeKalb Bank, Decatur, Georgia (South DeKalb Bank), an insured State nonmember bank with total deposits of $5,100,000.1/ Application also is made under Section 18(d) of the Federal Deposit Insurance Act to operate as branches of Emory Bank: the main office and branch of Chamblee Bank; the sole office of Park National Bank; and the main office and branch of South DeKalb Bank.

Competition. The Citizens and Southern National Bank (C&S National), Savannah, Georgia, is the owner of all the outstanding stock of Citizens and Southern Holding Company (C&S Holding), Savannah, Georgia, which in turn owns 95.14 percent of the stock of Emory Bank, and 5 percent each of the stock of Chamblee Bank, Park National Bank, and South DeKalb Bank. The three offices of Emory Bank and all offices of the three banks it proposes to acquire are located in DeKalb County. The C&S system, including its 5 percent affiliates, presently controls 41.8 percent of all deposits held at DeKalb County commercial bank offices and operates 25.4 percent of the commercial bank offices in the County, making it by far the largest banking system in DeKalb County.

Because the C&S system has such a large share of the banking resources of DeKalb County, proposed new acquisitions of nonaffiliated banks in the same market would raise the most serious competitive problems under the Bank Merger Act as amended and under Section 7 of the Clayton Act. Whether similar considerations require the Corporation to deny the proposed acquisitions by a C&S subsidiary of three banks in which C&S Holding has only 5 percent stock interest is the question raised by the present applications.

1/ Deposit data as of June 30, 1971

Re: The Citizens and Southern Emory Bank

Emory Bank and the three banks proposed to be acquired together serve nearly the whole of DeKalb County; with the exception of South DeKalb Bank, they draw their business from overlapping areas in the County. Emory Bank holds 12.8 percent of total DeKalb County Deposits; Chamblee Bank (organized in 1960) holds 5.8 percent, Park National Bank (organized in 1967) 2.8 percent, and South DeKalb Bank (organized in 1969) 1.1 percent, respectively, of total DeKalb County deposits. These four banks, however, do not compete today and never have competed in the past.

Except that these four banks are located in DeKalb County, rather than Fulton County, substantially the same facts are presented as to the organization of the banks, the close working relationship between them, the lack of competition between them, and the unlikely prospect of voluntary disaffiliation, as were presented by the proposals to merge the Citizens and Southern Bank of North Fulton, Roswell, Georgia (North Fulton Bank) and other C&S Banks in Fulton County, approved today by the Corporation.

Following the reasoning set down in the basis in that matter, the Corporation concludes that the proposed acquisitions would not be anticompetitive, either as to existing or as to potential competition and that since the other factors to be considered weigh neither for approval nor denial, approval of the applications is warranted. See In Re: The Citizens and Southern Bank of East Point, East Point, Georgia; Application for Consent to Acquisition of Assets and Assumption of Liability to Pay Deposits and to Establish Two Branches, decided October 4, 1971.

# # # # #

GX-33 D

FEDERAL DEPOSIT INSURANCE CORPORATION

Re: The Citizens and Southern Emory Bank
Atlanta, Georgia
Application for Consent to Acquisition of
Assets and Assumption of Liability to Pay
Deposits and to Establish Two Branches

BASIS FOR CORPORATION DENIAL

The Citizens and Southern Emory Bank, Atlanta, Georgia (Emory Bank), an insured State nonmember bank with total deposits of $34,796,000, has applied, pursuant to Section 18(c) and other provisions of the Federal Deposit Insurance Act, for the Corporation's prior approval to acquire the assets of and to assume the liability to pay deposits made in Citizens and Southern Bank of Tucker, Tucker, Georgia (Tucker Bank), an insured State nonmember bank with total deposits of $24,738,000.1/ Application is made also under Section 18(d) of the Federal Deposit Insurance Act to operate the main and single branch office of Tucker Bank as branches of the resulting bank.

Competition. The Citizens and Southern National Bank (C&S National), Savannah, Georgia, is the owner of all the outstanding stock of Citizens and Southern Holding Company (C&S Holding), Savannah, Georgia, which in turn owns 95.14 percent of the stock of Emory Bank and 5.0 percent of the stock of Tucker Bank.

The C&S system, including its 5% affiliates, presently controls 41.8 percent of all deposits held at DeKalb County commercial bank offices and 25.4 percent of all commercial bank offices in the County, making it by far the largest banking system in DeKalb County.

Tucker Bank was organized in 1919 and did not become affiliated with the C&S system until early 1965. At that time Tucker Bank maintained only one office, holding approximately $4 million in deposits.

When C&S Holding acquired its 5% interest in Tucker Bank, approximately 75 percent of Tucker Bank's remaining stock was acquired simultaneously by holders close to the C&S system. Ever since, Tucker Bank has been operated with substantially the same close working relationship between it and other C&S banks that exists between the C&S system and the 5% banks which it organized de novo. This relationship, and the lack of existing competition between C&S banks, are detailed in the Basis for Corporation Approval issued this date in connection with the proposed acquisition by the Citizens and Southern Bank of East Point and two other 5% C&S banks in Fulton County.

Even as to Tucker Bank, the Corporation sees no reason to anticipate a voluntary disaffiliation from the C&S system if this proposed merger is denied.

1/ Deposit data as of June 30, 1971.

Re: The Citizens and Southern Emory Bank

The close, and apparently friendly, working relationship that presently exists with the C&S system argues against the likelihood of such disaffiliation despite the fact that 17 percent of the outstanding stock of Tucker Bank remains in the hands of the family that controlled the bank as an indeperdent institution when C&S acquired its interest in 1965. As in the case of the other proposed mergers of 5% banks into majority-owned C&S subsidiaries, more than 87 percent of the outstanding shares of Tucker Bank were voted in favor of this proposed merger and only 26 shares (less than 0.1 percent) of the outstanding shares were voted against the proposal. Disaffiliation, if it occurs, would appear to depend on compulsory process to sever the C&S relationship with this bank, rather than the denial of the application now before the Corporation.

While the Corporation finds that existing competition would not be eliminated by the proposed merger, and that future competition through voluntary disaffiliation is unlikely, it subscribes to the following view expressed by the Board of Governors of the Federal Reserve System in its May 20, 1971, opinion on the reconsideration of its earlier decision relating to the proposed merger of Trust Company of Georgia and Peachtree Bank and Trust Company, Chamblee, Georgia:

> "...A merger of two banks which are not significant competitors cannot be regarded as eliminating significant existing competition, and, similarly, if future competition is unlikely -- even though possible -- the merger cannot be regarded as reasonably likely to lessen future competition.
>
> "This does not mean that every proposed merger before the Board of two related banks receives favorable consideration. First of all, consideration must be given to the question of whether the relationship was anticompetitive in its origins; if so, little weight should be attributed to such relationship, since to do so might encourage evasion of the law.***" [Emphasis supplied.]

The Corporation took a similar position in its December 1, 1970, opinion approving the proposed merger of The Lone Tree Savings Bank into The Farmers and Merchants Savings Bank, also of Lone Tree, Iowa, and in its December 4, 1970, opinion approving the proposed merger of Embarrass State Bank, Embarrass, Wisconsin into Citizens State Bank, Shawano, Wisconsin.

The following circumstances surrounding the affiliation of Tucker Bank with the C&S system in 1965 appear relevant. Tucker Bank was a small, limited service unit bank serving primarily the credit needs of outside business interests of the Cofer family, its controlling owners. A new national bank was being organized in Tucker, which promised more intense competition. Seeking more experienced banking management and a good price for their stock, the controlling owners of Tucker Bank approached C&S National, with whose management they were personally friendly, and the sale of 80 percent of their stock to C&S interests was consummated shortly thereafter.

Re: The Citizens and Southern Emory Bank

While the C&S affiliation resulted in broadening the banking services offered to Tucker Bank customers, it also resulted in a significant increase in the share of DeKalb County banking resources controlled by the C&S system. At year-end 1964, the C&S system already controlled approximately 24 percent of total DeKalb County commercial bank deposits and a slightly larger share of all the commercial bank offices in the County. Tucker Bank's deposits represented at that time about 5 percent of total DeKalb County commercial bank deposits. Its affiliation with the C&S system not only increased substantially that system's lead over other banking organization in the County, but foreclosed the possibility that Tucker Bank, either as an independent bank under different control or as part of another large banking organization with a less substantial share of DeKalb County banking resources, would become a significant competitor to the C&S system.

Tucker Bank at the time was not in an unsound condition, it had had no experience actually competing against the new bank being organized in its community, and the record discloses no serious effort on the part of its owners to find some other, less anticompetitive solution to the new situation it faced. Moreover, with the growth projected for the Tucker area, the C&S system might have found it desirable and practicable, if not in 1964-1965, then at some later date, to establish a de novo bank in the area served by Tucker Bank, just as it did in other growing secitons of DeKalb County prior to the recent change in Georgia's branching laws.

Based on the increased concentration of DeKalb County banking resources in the C&S system and the elimination of probable future competition with Bank of Tucker had the affiliation with C&S not taken place, the Corporation finds that the present affiliation was anticompetitive in its origins and should not now be ratified by the Corporation's approval under the Bank Merger Act.

Financial and Managerial Resources; Future Prospects. These factors are satisfactory with respect to each of the banks involved and are so projected for the resulting bank.

Convenience and Needs of the Community to be Served. In View of the close working relationship that presently exists between the C&S system and these two banks, neither consummation nor denial of the proposed merger would change in any significant way the ability of Tucker Bank to serve the convenience and needs of DeKalb County residents.

With the various other factors to be considered weighing neither for approval nor denial, the Corporation concludes that the application now before it should be denied in view of the anticompetitive nature of the original affiliation of Bank of Tucker with the C&S system in 1965.

# # # # # #

GX-33 E

FEDERAL DEPOSIT INSURANCE CORPORATION

IN RE: The Citizens and Southern Emory Bank
DeKalb County (P. O. Atlanta), Georgia
Application for Consent to Establish a Branch (DENIAL)

STATEMENT

Pursuant to the provisions of Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828), The Citizens and Southern Emory Bank, DeKalb County (P. O. Atlanta), Georgia, a subsidiary of Citizens and Southern Holding Company, has filed an application with the Federal Deposit Insurance Corporation for consent to establish a branch at the corner of Ashford-Dunwoody Road and Perimeter Center Drive, DeKalb County (P. O. Atlanta), Georgia.

The Perimeter Center Branch would be located in an unincorporated area of DeKalb County which is being developed into an office building park and shopping center known as Perimeter Center. This development will be one of the metropolitan area's largest commercial centers outside of downtown Atlanta when completed. The trade area population is estimated in excess of 25,000 with single family residences priced in the $25,000 to $45,000 range generally, and numerous apartment development complexes in the area are anticipated. Three Atlanta-based banks have received approval to open branches within the Perimeter Center complex and a fourth bank has approval to open a branch approximately one and one-half miles away.

Statutory Factors to be Considered

The Corporation is required by Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828) to consider, in determining whether to grant or withhold its consent to the establishment of a new branch by a State nonmember insured bank, the financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community to be served, and whether or not its corporate powers are consistent with the purposes of the FDI Act. The Board of Directors finds favorably on all factors, other than convenience and needs.

Convenience and Needs

Although the statutory factors do not expressly require that competition be taken into account, there are nevertheless compelling considerations that lead the Corporation to conclude that competition is an inherent part of the convenience and needs factor, and must be considered in determining whether the convenience and needs of the community are served by the establishment of a branch.

In Re: The Citizens and Southern Emory Bank

The duty of a Federal regulatory agency to preserve and promote competition, where there is no explicit statutory directive to do so, is typically found to be implicit in the statutory obligation to determine whether a proposal would be in the "public interest" or would be warranted by considerations of "public convenience and necessity." See, e. g., United States v. R.C.A., 358 U.S. 334, 351 (1959); Northern Natural Gas Co. v. Federal Power Commission, 399 F. 2d 953, 959-61 (D.C. Cir. 1968). Although the pertinent provisions of the FDI Act do not employ either of these phrases, the phrase "convenience and needs" is closely akin to each of them and, indeed, has been interpreted to include competition as a relevant consideration in a recent de novo branch application by a national bank where applicable State law, judicially construed as applicable to national banks, required that "convenience and needs of the public" be considered. Clermont Nat'l Bank v. Citizenbank Nat'l Assoc., Civil No. 7987, (S.D. Ohio, filed June 15, 1971). Further, since the preservation of competition is an established national policy, actions by Federal regulatory agencies ought to be consistent with that policy, unless it is clear in the case of a particular agency-administered statute that Congress intended otherwise.

The Corporation's conclusion that competition is a proper consideration in applications for de novo branches coming before it is consistent with the construction placed on the Federal Reserve Board's statutory authority to pass on de novo branch applications, which authority mentions neither competition nor "convenience and needs" as relevant considerations. See 12 U.S.C. §§ 36, 321. Competition was judicially determined to be a proper consideration under the Federal Reserve Board's statutory authority on the rationale that

> ". . . when Congress impowers an agency to 'approve' an action, it normally requires the agency to consider the probable effects of the action within the area of agency responsibility. The existence of too much or too little competition may cause serious harm in banking as it may in other areas of business. Thus, it is important for the [Federal Reserve] Board to consider whether an applicant may be seeking to establish a large number of branches in order to give it an undue competitive advantage . . ."

Old Kent Bank & Trust Co. v. Martin, 172 F. Supp. 951, 952, (D.C. 1959), rev'd on other grounds, 281 F. 2d 61 (D.C. Cir. 1960). The statutory authority of the Federal Reserve Board in this respect is similar to that of the Comptroller of the Currency. The Federal Reserve Board currently lists competition as a relevant consideration in de novo branch applications. See 12 C.F.R. § 265.2(f)(1)(iv).

The portions of the FDI Act governing bank mergers (Section 18(c); 12 U.S.C. 1828(c)), as judicially construed, make it clear that the law is directed toward achieving an accommodation between a needed addition to banking services and the maintenance of competition in a relevant geographic market, although the statute lists both competition and "convenience and needs" as relevant factors. A proposed added quantity or range of banking services is only one consideration under "convenience and needs" and the law recognizes that a competitive banking market, with its potential for innovation, improved services and price competition, also has benefits for the banking "convenience and needs" of

a community. More particularly, decisions of the Supreme Court under the Bank Merger Act as amended have concluded that an anticompetitive bank merger cannot be justified on "convenience and needs" grounds unless all consumers of banking services in the relevant area for assessing competition are likely to benefit, and unless the benefits in "convenience and needs" cannot be attained through other, less anticompetitive means. See United States v. Phillipsburg Nat'l Bank, 399 U.S. 350 (1970); United States v. Third Nat'l Bank in Nashville, 386 U.S. 361 (1967); see also H.R. Rep. No. 1416, 86th Cong., 2d Sess. 10 (1960).

Given the foregoing considerations, and the principle that the provisions of a regulatory scheme should be construed so as to mesh rather than conflict, the Corporation concludes that the maintenance of a competitive banking market is an appropriate factor to consider in the case of de novo branch applications under Section 18(d) of the FDI Act.

Turning to the facts of this branch application, an additional banking facility in this proposed shopping center would provide some limited benefit to the public. The extent of this benefit is minimized because of the already opened or approved branches of three large Atlanta banks within the shopping center itself and an additional branch of a fourth bank only one and one-half miles east.

Contrasted with this benefit is the fact that the Citizens and Southern system controls 25% of the banking offices in DeKalb County and, as of June 30, 1971, 42% of the deposits in the County, and the fact that the establishment of additional branches by the Citizens and Southern system could cause a further concentration of the banking business in DeKalb County. An opportunity on the part of other banks, however, to open de novo branches and to develop their stake in this particular service area, without immediate competition from the Citizens and Southern system, could have the opposite effect of deconcentrating such banking resources and encouraging a greater number of meaningful banking options for the public over the long term.

Considering all the facts and information relevant to the determination, the Board of Directors concludes that these competitive considerations outweigh the limited benefit that might accrue to the public from the existence of an additional banking office in this location. The application is therefore denied.

THE BOARD OF DIRECTORS
FEDERAL DEPOSIT INSURANCE CORPORATION

GX-35

UNITED STATES OF AMERICA

BEFORE THE BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

WASHINGTON, D. C.

In the Matter of the Application of TRUST COMPANY OF GEORGIA, Atlanta, Georgia, for approval of acquisition of assets and assumption of liabilities of Peachtree Bank and Trust Company, Chamblee, Georgia.	ORDER ON PETITION FOR RECONSIDERATION.

On February 22, 1971, the Board of Governors issued an Order pursuant to the Bank Merger Act (12 U.S.C. 182*b*(c)), approving an application by Trust Company of Georgia, Atlanta, Georgia, for prior approval of the merger of Trust Company with Peachtree Bank and Trust Company, Chamblee, Georgia, by means of Trust Company's purchase of assets and assumption of liabilities of Peachtree Bank.

In order to permit study of the complex procedural and substative issues raised by a petition by the United States Department of Justice for reconsideration of that Order, the Board, on March 19, 1971, stayed its operation.

After study of those issues, the Board finds that reconsideration of its Order of February 22, 1971 would be appropriate and in the public interest.

It is hereby ordered, For the reasons set forth in the accompanying Statement and in the Board's Order of February 22, 1971, that the Orders of March 19 and February 22, 1971 be and hereby are vacated, and it is further ordered, That the application be and hereby is approved, provided that the merger so approved shall not be consummated (a) before the thirtieth calendar day following the date of this Order or (b) later than three months after the date of this Order, unless such period is extended for good cause by the Board, or by the Federal Reserve Bank of Atlanta pursuant to delegated authority.

By order of the Board of Governors, May 20, 1971.

Voting for this action: Chairman Burns and Governors Mitchell, Daane, Maisel, Brimmer, and Sherrill.

Voting against this action (on the merits of the application): Governor Robertson

(Signed) Kenneth A. Kenyon

Kenneth A. Kenyon
Deputy Secretary

[SEAL]

BOARD OF GOVERNORS

OF THE

FEDERAL RESERVE SYSTEM

APPLICATION BY
TRUST COMPANY OF GEORGIA, ATLANTA, GEORGIA,
FOR APPROVAL OF ACQUISITION OF ASSETS AND ASSUMPTION
OF LIABILITIES OF PEACHTREE BANK AND TRUST COMPANY
CHAMBLEE, GEORGIA

STATEMENT

On February 22, 1971 the Board of Governors issued an Order pursuant to the Bank Merger Act (12 U.S.C. 1828(c)), approving an application by Trust Company of Georgia, Atlanta, Georgia ("Trust Company"), for prior approval of the merger of Trust Company with Peachtree Bank and Trust Company, Chamblee, Georgia ("Peachtree Bank"), by means of Trust Company's purchase of assets and assumption of liabilities of Peachtree Bank. As an incident to the merger, the two offices of Peachtree Bank would become branches of Trust Company.

On March 2, 1971, the Department of Justice filed with the Board a petition requesting reconsideration of the Board's Order of February 22, 1971. The petition was brought pursuant to § 262.3(f)(6) of the Board's Rules of Procedure, which provides that the Board will not grant any request for reconsideration unless "the request presents relevant facts that, for good cause shown, were not previously presented

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to the Board, or unless it otherwise appears to the Board that reconsideration would be appropriate." Opportunity was afforded Trust Company to reply to the allegations of the Department and the Board has given careful consideration to the briefs filed on behalf of Trust Company and the Department. On March 19, the Board stayed its February 22 Order to study the issues raised.

In its petition, the Department noted that, pursuant to the Bank Merger Act, the Board had requested from it a report on the competitive factors involved in the application, but had not been furnished the report within the statutorily prescribed period because of the illness of certain key personnel and incomplete information concerning the apparently unique banking relationships existing in the relevant Georgia markets. The Department urged that the Board consider certain additional information and arguments bearing on the relation between Trust Company and Peachtree Bank, and reconsider the competitive effects of the proposal in the light thereof.

Trust Company has urged that the Board deny the Department's request on the grounds, among others, that the Department is not an appropriate party to request reconsideration. Without deciding that question, or the question of whether the petition presents relevant facts which, for good cause shown, were not previously presented, the Board finds it appropriate and in the public interest to vacate and reconsider its Order of February 22, 1971 in the light of the issues raised by the Department.

In its Order approving the application, the Board indicated that its conclusions with respect to the competitive effects of the proposal took account of the fact that Trust Company was instrumental in organizing Peachtree Bank in 1960, and that the banks had been closely associated since that time. The Department does not controvert those findings, but instead argues that, in attributing significance to them in assessing the competitive aspects of the transaction, the Board applied an incorrect standard. It states that "the mere existence of a 'close relationship' between the two merging banks should not serve to release the merger from the usual competitive considerations applied by the Board (or from the standards of Clayton Act § 7)." It then proposes the following as a test of the relevance of any relationship between two merging banks:

> "[W]here a metropolitan bank in reality <u>establishes</u> a new bank (rather than assisting others in establishing such a bank), the new bank may be in effect an extension or branch of the existing bank. This occurs where it, albeit indirectly, organizes, controls, and finances the new bank. In such circumstances, a subsequent merger of the 'affiliated' bank into the large Atlanta bank is not likely to have competitive significance. Absent this situation of original and continuing control, however, we believe that the new 'affiliated' bank should be considered an independent competitive factor and any subsequent acquisition or merger evaluated according to traditional standards."

At the outset, it should be clear that every bank merger before the Board is subject to scrutiny under the same standards, that is, whether its effect "in any section of the country may be substantially

to lessen competition, or to tend to create a monopoly, or . . . in any other manner would be in restraint of trade." The existence of a factual situation, of whatever nature, which indicates that competition between two banks is not substantial and is unlikely to become such does not result in the application of different standards. However, it may lead to a different conclusion than would be reached if the same standards were applied to a different factual situation. A conclusion as to whether a particular proposal may have the effect of substantially lessening competition must be based on the facts of the particular case, and the Board is not authorized, much less required, to ignore facts which bear on that conclusion. A merger of two banks which are not significant competitors cannot be regarded as eliminating significant existing competition. And, similarly, if future competition is unlikely - even though possible - the merger cannot be regarded as reasonably likely to lessen future competition.

This does not mean that every proposed merger before the Board of two related banks receives favorable consideration. First of all, consideration must be given to the question of whether the relationship was anticompetitive in its origins; if so, little weight should be attributed to such relationship, since to do so might encourage evasion of the law. Assuming, however, that the relationship was not anti-competitive when established or fashioned so as to avoid legal restrictions, its impact on competition - present and future - should be considered

realistically in determining whether approval of the transaction would be in the public interest. If the effect of a relationship is to create and sustain cooperation, and not competition, between the banks, their merger cannot reasonably be said to eliminate presently existing competition between them. Insofar as the future effects of the proposal are concerned, that depends on whether it might reasonably be anticipated that the existing inhibitions on competition might be terminated, so that, if the banks were not merged, effective competition between the banks would be likely. It may be that, in a very highly concentrated market, elimination of even a relatively remote possibility of significant future competition would mean that approval of the transaction would not be in the public interest. But in no case does the Board consider it appropriate to regard the elimination of a remote possibility of future competition as being the equivalent of the elimination of a reasonable probability of such competition. 1/

1/ It should be noted that Trust Company of Georgia, in addition to being a bank, is also a bank holding company. Had it established control over another bank sufficiently firm to meet the Justice Department's proposed standard, it would probably be regarded as violating the Bank Holding Company Act. In such case, the relationship between the two banks, being unlawful, would properly be regarded as less durable than the present relationship, not more so. It should also be stressed that, under recent amendments to the Bank Holding Company Act, the establishment of such control by any bank over another requires prior approval of the Board.

Reexamination of the facts of the present case, including those stressed by the Department, do not persuade the Board that its original decision was incorrect. Trust Company was largely responsible for the founding of Peachtree Bank, has supplied it with management (which continues to participate in Trust Company's retirement and profit-sharing plans), and has accorded it all the assistance and cooperation which this relationship implies. While it does not control the bank or its policies, the relationship between them is such that they cannot realistically be regarded as significant competitors to each other. Moreover, while Trust Company apparently does not have the ability to force continuation of the relationship, the relationship appears to have been mutually beneficial and there is no reason to expect that either Trust Company or Peachtree Bank would voluntarily discontinue it if their merger were to be prohibited. The latter has advised that almost 40 per cent of its IPC demand deposits are in accounts whose size exceeds the insurance maximum, and that most of them would likely be moved elsewhere if the relationship were terminated.

Nor do the facts suggest that, if Peachtree Bank were to become truly independent of Trust Company, competition would be so much enhanced that the preservation of the mere possibility of such occurrence should be accorded unusual significance. Peachtree Bank, with $15 million deposits, has the eighth largest share of deposits in DeKalb County (7 per cent) of the 19 banks operating there. As indicated above,

it would likely be even smaller were its relationship with Trust Company to be terminated. It is doubtful that, as an independent, it would exert a significant competitive influence on Trust Company or other Atlanta banks.

Based on these facts, the board concludes that consummation of the transaction would not have a substantially adverse effect on competition in any relevant area. As to other factors required to be considered by the Act, the Board incorporates its findings and conclusions as set forth in its Order of February 22, 1971.

On the basis of the record in this case, as supplemented by the petition and supporting documents filed by the Department of Justice and Applicant's response thereto, it is the Board's judgment that the proposed merger would be in the public interest and that the application should be approved.

May 20, 1971

DISSENTING STATEMENT OF GOVERNOR ROBERTSON

At the time the Board first considered this application, I voted to approve on the grounds that the facts were such that no significant change in banking competition in the relevant area would result. However, I am now convinced by the Justice Department position that, since the relationship between Trust Company and Peachtree Bank does not constitute actual control, the banks should be treated as independent institutions in analyzing the competitive effects of the proposal. Considering the facts in this context, I would reverse my prior decision and deny the application, the approval of which will permanently foreclose the possibility of future competition and constitute a precedent that could lead to additional anticompetitive mergers in areas where concentration of banking power is already great.

Moreover, I believe denial is called for even under the method of analysis adopted by the majority - which is to consider all facts bearing on the present and potential ability of the banks to compete, and to weigh the possibility of disaffiliation with the benefits that would result if the smaller bank became independent.

Admittedly the relationship between the banks is such as to inhibit competition between them; however, the possibility that Peachtree would become independent is far from remote. The record indicates that Trust Company's initial offer was rejected by Peachtree, that the two banks have no common officers and directors, that common stock ownership is minimal, and that the two banks have pursued different commercial strategies. Clearly the relationship between the banks is not so strong as to preclude the possibility of disaffiliation.

Peachtree Bank is located in DeKalb County (pop. 414,000). That county is situated to the east of Atlanta and, as part of the Atlanta SMSA, is one of the fastest growing areas in the country. Although DeKalb County was once basically a "bedroom" suburb of Atlanta, the population increase has been accompanied by an even larger growth in the number and size of commercial and industrial firms. Banking in Atlanta is dominated by three banking organizations (including Trust Company). In Fulton County - where Atlanta is located - these three organizations control 73 per cent of deposits; in DeKalb County they control 53 per cent of deposits. Additionally, the three Atlanta banks have relationships with 12 banks in DeKalb County (including Peachtree), which, in the aggregate, control 28 per cent of that county's deposits. If mergers involving those 12 banks and their "affiliated" institutions were to be consummated, the three large Atlanta banks would control 82 per cent of the DeKalb County deposits, and 76 per cent of the deposits in the two-county area.

In my judgment, these "affiliated" banks represent a source of competition for the three Atlanta banks. By approving the present application, the Board has permitted Trust Company to increase its share of DeKalb County deposits from 14 to 20 per cent, and has adopted a policy of removing potential sources of deconcentration for the Atlanta area.

For these reasons, I would deny the application and preserve the realistic possibility that Peachtree might become independent.

May 20, 1971

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the Division Indicated and Refer to Initials and Number
RWMcL:DIB:CLW
60-111-2041

November 12, 1970

Honorable Frank Wille
Chairman
Federal Deposit Insurance
Corporation
Washington, D. C. 20429

Dear Mr. Chairman:

This is in reply to your letter of October 15, 1970, requesting a report pursuant to Section 18(c) of the Federal Deposit Insurance Act on the competitive factors involved in the proposed merger of Citizens and Southern Bank of East Point, East Point, Georgia, Citizens and Southern Bank of North Fulton, Roswell, Georgia and Citizens and Southern Bank of Sandy Springs, Sandy Springs, Georgia under the charter and title of Citizens and Southern Bank of East Point.

1. The Banks

Citizens and Southern Bank of East Point ("C&S East Point") was chartered under another name in 1946. The Citizens and Southern Holding Company ("C&S Holding") first acquired an interest in it in November, 1948 and now owns about 90 per cent of the bank's stock. The Citizens and Southern National Bank, which has its main office in Savannah but most of its business in Atlanta, is the lead bank of C&S Holding. C&S East Point operates its main office and one branch in the City of East Point, Fulton County. As of June 30, 1970, C&S East Point had total deposits of $25.9 million (including IPC demand deposits of $10.1 million) and loans and discounts of $24.0 million. Its net operating income in 1969 was $751,000, a substantial increase over its 1965-69 average of $488,000.

Citizens and Southern Bank of North Fulton ("C&S North Fulton") was organized with the assistance of C&S Holding in May, 1967. C&S Holding has owned 5 per cent of its outstanding stock since its organization. It operates its only office in Roswell, Fulton County. As of June 30, 1970, C&S North Fulton had total deposits of $5.8 million (including IPC demand deposits of $1.9 million) and loans and discounts of $5.2 million. Its net operating income in 1969 was $141,000, well above its 1967-69 average of $67,000.

Citizens and Southern Bank of Sandy Springs ("C&S Sandy Springs") was organized with the assistance of C&S Holding as The Citizens National Bank of Sandy Springs in December, 1959. It was converted to a state charter and adopted its present name in October, 1969. C&S Holding has owned 5 per cent of its outstanding stock since its organization. It operates its only office in Sandy Springs, Fulton County. As of June 30, 1970, C&S Sandy Springs had total deposits of $17.7 million (including IPC demand deposits of $8.7 million) and loans and discounts of $14.0 million. Its net operating income in 1969 was $505,000, more than double its 1965-69 average of $238,000.

2. The Communities

East Point, Roswell and Sandy Springs are all located in Fulton County, outside the city limits of Atlanta. All three are basically bedroom suburbs and all have benefited from the substantial growth which Atlanta enjoyed in the 1960's.

3. Effect on Existing Competition

These mergers constitute what is essentially an internal reorganization. All three banks are located in Fulton County but they have never represented independent competitive forces in the county. They have all been operated by C&S Holding as part of one banking system. C&S North Fulton and C&S Sandy Springs

were chartered independently because Georgia law prohibited C&S East Point from branching throughout Fulton County. These proposed mergers have been made possible by a change in Georgia's branching law which will become effective on January 1, 1971. Since no competition has ever existed between these banks, these mergers will have no adverse effect on competition.

A summary of this report is attached.

Sincerely yours,

RICHARD W. McLAREN
Assistant Attorney General
Antitrust Division

By: Donald I. Baker
Deputy Director of Policy Planning

SUMMARY OF THE REPORT OF THE DEPARTMENT OF JUSTICE ON THE COMPETITIVE FACTORS INVOLVED IN THE PROPOSED MERGER OF CITIZENS AND SOUTHERN BANK OF EAST POINT, EAST POINT, GEORGIA, CITIZENS AND SOUTHERN BANK OF NORTH FULTON, ROSWELL, GEORGIA AND CITIZENS AND SOUTHERN BANK OF SANDY SPRINGS, SANDY SPRINGS, GEORGIA

These mergers constitute what is essentially an internal reorganization. All three banks are located in Fulton County but they have never represented independent competitive forces in the county. They have all been operated by C&S Holding as part of one banking system. C&S North Fulton and C&S Sandy Springs were chartered independently because Georgia law prohibited C&S East Point from branching throughout Fulton County. These proposed mergers have been made possible by a change in Georgia's branching law which will become effective on January 1, 1971. Since no competition has ever existed between these banks, these mergers will have no adverse effect on competition.

GX-37

UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the Division Indicated and Refer to Initials and Number
RWMcL:DIB:CLW
60-111-2042

December 29, 1970

Honorable Frank Wille
Chairman
Federal Deposit Insurance
Corporation
Washington, D. C. 20429

Dear Mr. Chairman:

This is in reply to your letter of October 15, 1970, requesting a report pursuant to Section 18(c) of the Federal Deposit Insurance Act, on the competitive factors involved in the proposed merger of Citizens and Southern Emory Bank, DeKalb County (P.O. Atlanta), Georgia, Citizens and Southern Bank of Chamblee, Chamblee, Georgia, Citizens and Southern Bank of Tucker, Tucker, Georgia, Citizens and Southern Park National Bank, Atlanta, Georgia and Citizens and Southern South DeKalb Bank, Decatur, Georgia under the charter and title of Citizens and Southern Emory Bank.

1. The Banks

Citizens and Southern Emory Bank ("C&S Emory") was organized in 1950. All of the stock of this bank, save for directors' qualifying shares, has always been held by Citizens and Southern Holding Company ("C&S Holding"), a registered bank holding company. C&S Holding is a wholly owned subsidiary of Citizens and Southern National Bank ("C&S National"), the largest bank in Georgia with deposits of $1.4 billion, and itself a registered bank holding company. C&S Emory operates its main office and two branches in Emory, DeKalb County. As of June 30, 1970, C&S Emory had total deposits of $36.9 million (including IPC demand deposits of $14.0 million) and loans and discounts of $29.8 million. Its net operating income in 1969 was $1.0 million, considerably above its 1965-9 average of $464,000.

Citizens and Southern Bank of Chamblee ("C&S Chamblee") was organized as Chamblee National Bank in May , 1960, with the assistance of C&S Holding. In October, 1969, it converted to a state charter and adopted its present name. C&S Holding has owned 5 per cent of its outstanding stock since its organization. C&S Chamblee operates its main office and one branch in Chamblee, DeKalb County. As of June 30, 1970, C&S Chamblee had total deposits of $16.9 million (including IPC demand deposits of $8.9 million) and net loans and discounts of $13.6 million. Its net operating income in 1969 was $624,000, substantially above its 1965-9 average of $345,000.

Citizens and Southern Bank of Tucker ("C&S Tucker") was chartered as the Bank of Tucker in 1919. In 1965, C&S Holding acquired a 5 per cent interest in the bank; the name of the bank was changed to its present title at that time. C&S Tucker operates its main office and a branch in Tucker, DeKalb County. As of June 30, 1970, C&S Tucker had total deposits of $19.9 million (including IPC demand deposits of $10.4 million) and loans and discounts of $15.0 million. Its net operating income in 1969 was $692,000, considerably above its 1965-9 average of $363,000.

Citizens and Southern Park National Bank ("C&S Park National") was organized with the assistance of C&S Holding in 1967. It is located and operates its sole office in an office development complex in DeKalb County. As of June 30, 1970, C&S Park National had total deposits of $8.2 million (including IPC demand deposits of $5.4 million) and loans and discounts of $6.0 million. Its net operating income in 1969 was $164,000, more than double its 1967-9 average of $62,000.

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Citizens and Southern South DeKalb Bank ("C&S South DeKalb") was organized with the assistance of C&S Holding in 1969. It operates its only office in Decatur, DeKalb County and has recently received regulatory authority to establish an additional office. As of June 30, 1970, C&S South DeKalb had total deposits of $3.2 million (including IPC demand deposits of $1.5 million) and loans and discounts of $2.7 million. Its net operating income in 1969, its only year of operation, was $56,000.

2. The Communities

All of the banks involved in the proposed mergers operate offices in DeKalb County. DeKalb County (1970 population 414,000) is a part of the Atlanta Standard Metropolitan Statistical Area ("SMSA"), one of the fastest growing areas in the country, and DeKalb County has actually grown faster than the Atlanta area generally. DeKalb County is basically a "bedroom" suburb of Atlanta, but the population increase has been accompanied by large increases in the number and size of commercial and industrial firms in the county.

3. Effect on Competition

C&S Chamblee, C&S Park National and C&S South DeKalb were organized by parties friendly to C&S Holding, with C&S Holding's assistance. They have always been operated as C&S "affiliates" in DeKalb County, since Georgia branching laws prohibited the C&S system from establishing new branches of any of the banks of the C&S system located in DeKalb County. These banks have never been independent competitive forces in DeKalb County.

C&S Tucker, however, for many years was an independent and viable banking competitor in DeKalb County. C&S Tucker's branch office is located some three miles from the nearest branch of C&S Emory, and somewhat further distances, ranging up to 11 miles, from the head offices of the other banks involved in this merger. The application states that 13.2 per cent of the IPC deposits in C&S Emory, 43.5 per cent of the IPC deposits in C&S Chamblee, 10.9 per cent of the IPC deposits in C&S Park National and .8 per cent of the IPC deposits in C&S South DeKalb originate in C&S Tucker's "service area." Although there are intervening banks, it is clear that a significant amount of competition which existed between C&S Tucker and other banks involved in this merger (and other C&S banks) at the time C&S Tucker became "affiliated" with C&S Holding, as well as the not insignificant amount which still exists, would be permanently eliminated by this merger.

The competitive implications must be seen in the light of banking structure in DeKalb County (an area which may overstate the market). Twenty-three banks operate 38 banking offices in the county, but most of these are subject to affiliations of various kinds and degrees with leading Atlanta banks. In fact, after making allowances for such affiliations, we find that five banking groups, each dominated by a large Atlanta bank, control over 95 per cent of DeKalb County deposits. There appear to be only four banks not affiliated with these groups and with one exception, these are under $1 million in deposits and less than one year old. The only bank of any size at all remaining in DeKalb County which has no known affiliation with an Atlanta bank is Peoples Bank of Lithonia, with deposits of $5.9 million. Thus, DeKalb County is in reality a highly concentrated banking market, completely dominated by the large Atlanta banks.

C&S Holding controls the largest share of DeKalb County deposits. C&S Holding owns or is affiliated with eight banks with offices in DeKalb County. These include C&S Emory, which holds the largest single share of county deposits (14 per cent), and C&S National the largest bank in the state, which has an office in East Atlanta. Those banks which C&S Holding owns or is affiliated with are: C&S National (one office in DeKalb County - total deposits $1.4 billion); C&S Chamblee (two offices - total deposits $16.9 million); C&S Bank of DeKalb (two offices - total deposits $36.9 million); C&S South DeKalb (one office - total deposits $3.2 million); C&S Bank of Stone Mountain (one office - total deposits $7.0 million); C&S Tucker (two offices - total deposits $19.9 million); and C&S Park National (one office - total deposits $8.2 million). Together, these eight banks hold over 45 per cent of DeKalb County deposits.

C&S Tucker holds about 7.1 per cent of total county deposits. It has a 50-year history of viable and independent banking pre-dating its "affiliation" with C&S Holding. The kind of affiliation, and its relatively short duration, does not preclude the possibility that C&S Tucker could again become an entirely independent competitor in an area where deconcentration is sorely needed.

In many respects, this proposed acquisition has similar competitive effect to those found by the Corporation in its Report to the Comptroller of the Currency on the proposed mergers of the First National Bank of Atlanta, The First National Bank of Tucker, and The First National Bank of Glenwood, dated November 25, 1970 (A-15-70). In that report, involving mergers of former indirect affiliates of another major Atlanta bank, the Corporation said:

> The acquisition by FNB Atlanta of Glenwood Bank and Tucker Bank would eliminate two potentially significant competitive forces in DeKalb County and the Atlanta SMSA and enhance FNB Atlanta's already impressive position in the SMSA. Moreover, approval of these two proposals

> would constitute a precedent that could lead to additional anticompetitive mergers and an even greater concentration in the Atlanta SMSA and in other areas of Georgia. The Corporation is of the view that the anticompetitive effect of the proposed merger cannot be ignored on the ground that FNB Atlanta is presently affiliated with Glenwood Bank and Tucker Bank . . . . Since the mergers proposed would enhance the already impressive position of FNB Atlanta in DeKalb County and in the Atlanta SMSA, and constitute a precedent that could lead to additional anti-competitive mergers and an even greater concentration of banking resources in the same areas and in other areas of Georgia, the Corporation has concluded that the proposed transaction would have a substantially adverse effect on competition in DeKalb County, in the Atlanta SMSA and in the State of Georgia as a whole.

4. Conclusion

The Georgia branching laws have recently been changed to allow, as of January 1, 1971, branching in any county in which a bank has its home office or a branch office. Since C&S Emory has offices in DeKalb County, it may now branch further in the county. The mergers of C&S Chamblee, C&S Park National and C&S South DeKalb into C&S Emory are apparently intended to consolidate into one C&S Holding "affiliate" the de facto branches it had established by setting up these other "affiliated"

banks. 1/ There seems to be no question that these banks have always been "affiliated" with the C&S system and have never represented independent competitors in DeKalb County banking. Thus, these mergers, standing alone, would have little or no effect on competition.

It seems clear, however, that the creation of the affiliation between C&S Holding and C&S Tucker had an adverse effect on competition at the time it occurred; and that the consummation of this merger would permanently foreclose the potential for future competition between C&S Tucker and the other banks of the C&S system. The consummation of this merger would thus be a significant step toward complete and permanent control of banking in DeKalb County by five large Atlanta banks. Because of these factors, we conclude that the proposed merger of C&S Tucker into C&S Emory would have a significantly adverse effect on competition.

A summary of this report is attached.

Sincerely yours,

RICHARD W. McLAREN
Assistant Attorney General
Antitrust Division

By: Donald I. Baker
Deputy Director of Policy Planning

1/ We, of course, take no position as to the legality of these prior arrangements under the Bank Holding Company Act of 1956 or other relevant statutes. Cf. Whitney Bank v. New Orleans Bank, 379 U.S. 411 (1965).

SUMMARY OF THE REPORT OF THE DEPARTMENT OF JUSTICE ON THE COMPETITIVE FACTORS INVOLVED IN THE PROPOSED MERGER OF CITIZENS AND SOUTHERN EMORY BANK, DeKALB COUNTY (P.O. ATLANTA), GEORGIA, CITIZENS AND SOUTHERN BANK OF CHAMBLEE, CHAMBLEE, GEORGIA, CITIZENS AND SOUTHERN BANK OF TUCKER, TUCKER, GEORGIA, CITIZENS AND SOUTHERN PARK NATIONAL BANK, ATLANTA, GEORGIA AND CITIZENS AND SOUTHERN SOUTH DeKALB BANK, DECATUR, GEORGIA

C&S Chamblee, C&S Park National and C&S South DeKalb were organized by parties friendly to C&S Holding, with C&S Holding's assistance. They have always been operated as C&S "affiliates" in DeKalb County, since Georgia branching laws prohibited the C&S system from establishing new branches of any of the banks of the C&S system located in DeKalb County. These banks have never been independent competitive forces in DeKalb County.

C&S Tucker, however, for many years was an independent and viable banking competitor in DeKalb County. C&S Tucker's branch office is located some three miles from the nearest branch of C&S Emory, and somewhat further distances, ranging up to 11 miles, from the head offices of the other banks involved in this merger. The application states that 13.2 per cent of the IPC deposits in C&S Emory, 43.5 per cent of the IPC deposits in C&S Chamblee, 10.9 per cent of the IPC deposits in C&S Park National and .8 per cent of the IPC deposits in C&S South DeKalb originate in C&S Tucker's "service area." Although there are intervening banks, it is clear that a significant amount of competition which existed between C&S Tucker and other banks involved in this merger (and other C&S banks) at the time C&S Tucker became "affiliated" with C&S Holding, as well as the not insignificant amount which still exists, would be permanently eliminated by this merger.

The competitive implications must be seen in the light of banking structure in DeKalb County (an area which may overstate the market). Twenty-three banks operate 38 banking offices in the county, but most of these are subject to affiliations of various kinds and degrees with leading Atlanta banks. In fact, after making allowances for such affiliations, we find that five banking groups, each dominated by a large Atlanta bank, control over 95 per cent of DeKalb County deposits. There appear to be only four banks not affiliated with these groups and with one exception, these are under $1 million in deposits and less than one year old. The only bank of any size at all remaining in DeKalb County which has no known affiliation with an Atlanta bank is Peoples Bank of Lithonia, with deposits of $5.9 million. Thus, DeKalb County is in reality a highly concentrated banking market, completely dominated by the large Atlanta banks.

C&S Holding controls the largest share of DeKalb County deposits. C&S Holding owns or is affiliated with eight banks with offices in DeKalb County. These include C&S Emory, which holds the largest single share of county deposits (14 per cent), and C&S National, the largest bank in the state, which has an office in East Atlanta. Those banks which C&S Holding owns or is affiliated with are: C&S National (one office in DeKalb County - total deposits $1.4 billion); C&S Chamblee (two offices - total deposits $16.9 million); C&S Bank of DeKalb (two offices - total deposits $36.9 million); C&S South DeKalb (one office - total deposits $3.2 million); C&S Bank of Stone Mountain (one office - total deposits $7.0 million); C&S Tucker (two offices - total deposits $19.9 million); and, C&S Park National (one office - total deposits $8.2 million). Together, these eight banks hold over 45 per cent of DeKalb County deposits.

C&S Tucker holds about 7.1 per cent of total county deposits. It has a 50-year history of viable and independent banking pre-dating its "affiliation" with C&S Holding. The kind of affiliation, and

its relatively short duration, does not preclude the possibility that C&S Tucker could again become an entirely independent competitor in an area where deconcentration is sorely needed.

The Georgia branching laws have recently been changed to allow, as of January 1, 1971, branching in any county in which a bank has its home office or a branch office. Since C&S Emory has offices in DeKalb County, it may now branch further in the county. The mergers of C&S Chamblee, C&S Park National and C&S South DeKalb into C&S Emory are apparently intended to consolidate into one C&S Holding "affiliate" the de facto branches it had established by setting up these other "affiliated" banks. There seems to be no question that these banks have always been "affiliated" with the C&S system and have never represented independent competitors in DeKalb County banking. Thus, these mergers, standing alone, would have little or no effect on competition.

It seems clear, however, that the creation of the affiliation between C&S Holding and C&S Tucker had an adverse effect on competition at the time it occurred; and that the consummation of this merger would permanently foreclose the potential for future competition between C&S Tucker and the other banks of the C&S system. The consummation of this merger would thus be a significant step toward complete and permanent control of banking in DeKalb County by five large Atlanta banks. Because of these factors, we conclude that the proposed merger of C&S Tucker into C&S Emory would have a significantly adverse effect on competition.

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UNITED STATES DEPARTMENT OF JUSTICE

WASHINGTON, D.C. 20530

Address Reply to the Division Indicated and Refer to Initials and Number
kWMcL:DIB:WES
60-111-2041
60-111-2042

March 12, 1971

Honorable Frank Wille
Chairman, Federal Deposit
Insurance Corporation
Washington, D. C. 20429

Dear Mr. Chairman:

Except as noted below, this supersedes competitive reports submitted by the Department of Justice, pursuant to Section 18(c) of the Federal Deposit Insurance Act, and dated November 12, 1970, and December 29, 1970, on certain merger transactions involving subsidiaries of Citizens and Southern National Bank, Savannah, Georgia ("C&S"). These transactions all involve a variety of complex competitive questions, arising out of unusual "affiliation" arrangements between C&S (a leading Atlanta bank) and various local banks in the Atlanta metropolitan area. The transactions are also related to other pending merger proposals involving two other leading Atlanta banks.

I. Background

The pending merger proposals involve C&S, First National Bank of Atlanta ("First National") and Trust Company of Georgia ("Trust Company"). Briefly, these are as follows:

C&S Mergers. The Department of Justice submitted a competitive report dated November 12, 1970, on the proposed merger of Citizens and Southern Bank of East Point ("C&S East Point") with Citizens and Southern Bank of North Fulton ("C&S North Fulton") and Citizens and Southern Bank of Sandy Springs ("C&S Sandy Springs"). The Department submitted a similar competitive report dated December 29, 1970, on the

E- 38

proposed merger of Citizens and Southern Emory Bank ("C&S Emory") with Citizens and Southern Bank of Chamblee ("C&S Chamblee"), Citizens and Southern Bank of Tucker ("C&S Tucker"), Citizens and Southern Park National Bank ("C&S Park National"), and Citizens and Southern South DeKalb Bank ("C&S South DeKalb"). C&S East Point and C&S Emory are both subsidiaries of C&S and their acquisitions therefore should be treated as acquisitions by C&S.

First National Mergers. The Department of Justice also filed competitive reports, dated December 29, 1970, with the Comptroller of the Currency involving applications by First National to merge with four banks in DeKalb County: First National Bank of Glenwood, First National Bank of Tucker, First National Bank of Doraville, and First Bank of South DeKalb. On January 20, 1971, the Comptroller of the Currency approved three of the four First National merger applications then pending. On February 18, 1971, the Department filed suit against First National and two of the banks with which they proposed to merge. United States v. First National Bank of Atlanta, et al., Civil No. 14748 (N.D. Ga.).

Trust Company Mergers. On February 22, 1971, the Board of Governors of the Federal Reserve System approved the application of Trust Company to acquire Peachtree Bank and Trust Company ("Peachtree") and Trust Company of Georgia Bank of Sandy Springs ("Sandy Springs"). When the Board approved these mergers, the Department of Justice had not yet submitted competitive reports; this was a result of pressure on staff resources and the illness of senior personnel. Therefore, on March 2, 1971, the Department submitted a Petition for Reconsideration, asking the Board of Governors to re-evaluate the Trust Company/Peachtree merger in light of the information we had uncovered and our current understanding and competitive analysis of Atlanta area banking markets. A copy of this Petition was forwarded to the Corporation at the time of filing.

In our competitive reports to the Corporation of November 12 and December 29, 1970 (and in the First National reports of December 29, 1970), we attempted to differentiate between the following types of situations:

(1) The type of situation in which a large Atlanta bank apparently established the new bank from scratch by indirect methods. We equated these situations with de novo branching and treated the proposed mergers as mere changes in corporate form having no adverse effects on competition. These situations appeared to include five of the banks for which C&S sought approval and two of the banks for which First National sought approval.

(2) The type of situation in which a large Atlanta bank entered into an "affiliation" arrangement involving a going concern which formerly had been entirely independent. This appeared to be the case with one bank for which C&S sought approval (C&S Tucker) and two banks for which First National sought approval. We objected to these situations on a basically twofold ground: First, that the original "affiliation" was anticompetitive; and secondly, that the prospective "forgiveness" provisions of the Bank Merger Act of 1966 would make the anticompetitive effect permanent and eliminate the potential for future competition.

This distinction obviously rested on our assumption that, in the situations which we had treated as essentially de novo branching, the acquiring bank had in fact established and completely controlled the smaller "affiliated" bank since its creation, and thus the smaller bank had never been an independent competitive force in its banking market. After we had sent these competitive reports, however, we began to receive information which indicated that this assumption might not be accurate. Based on this information, we instituted a field investigation in Atlanta.

That investigation revealed that, in at least one instance, our previous distinction was invalid. One of the C&S affiliates, C&S Bank of Stone Mountain ("Stone Mountain"), which appeared to have been organized and operated in a manner similar to, if not identical with, the other C&S "affiliates," had rejected a C&S merger proposal, broken away from the C&S system and become a truly independent banking entity. Further investigation involving this and other "affiliated" banks in the Atlanta area led us to seriously question our previous assumption that banks organized with assistance from C&S (or others) were in fact completely controlled by the latter. The information which we now have suggests that

most, if not all of the so-called "affiliates" of the large Atlanta banks have close working relationships with the latter, but were not necessarily controlled by them. This conclusion is buttressed by the available public statements of the Atlanta banks which unanimously deny the existence of actual control over the smaller suburban banks.

This letter is intended to provide the Corporation with the information developed in that investigation and our analysis of it. No information has come to our attention which would cause us to question our previous analysis of the acquisition of C&S Tucker and, so far as our conclusion as to the competitive effects of that acquisition was based on the affiliation of C&S with a previously independent and viable bank, we feel that conclusion was correct.

II. The Changing Georgia Law and Its Effect

For many years, Georgia banks have been allowed to branch only within the cities in which they are located. Since 1956, bank holding companies have also been severely restricted by state law. In that year, the Georgia legislature prohibited the ownership of more than 15 percent of the stock of two or more banks by a bank holding company. In 1960, the law was broadened to prohibit the establishment of any new bank holding companies altogether and to reduce the stock ownership allowable to five precent.

Prior ownership arrangements, however, were "grandfathered" under both the 1956 and 1960 laws (as they had been under the earlier branch banking restrictions). As a consequence, Citizens and Southern Holding Company ("C&S Holding"), a wholly-owned subsidiary of C&S, was able to retain ownership of three subsidiary banks--C&S East Point in Fulton County, and C&S Emory and C&S Bank of DeKalb in DeKalb County. Trust Company of Georgia Associates, a wholly-owned subsidiary of Trust Company, retained ownership of Trust Company of Georgia Bank of DeKalb in DeKalb County. In addition, First National retained two "grandfathered" branches in DeKalb County, at Decatur.

In response to these prohibitions against geographic expansion, the major Atlanta banks have developed different types of "affiliation" arrangements with suburban banks in the Atlanta area (Fulton and DeKalb counties). These appear to cover at least four banks in Fulton County outside Atlanta and at least nine banks in DeKalb County. The actual "affiliation" arrangements have differed considerably as between

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the three major Atlanta banking organizations. For example, C&S acquired 5% of the stock of each of its "affiliate" banks; generally it tried to arrange for additional stock to be held in friendly hands; it allowed the affiliates to use the C&S logo; and it provided various types of assistance to them. Trust Company has also acquired 5% of its two affiliates, with additional stock in friendly hands; in addition, its name was associated with its affiliate in Sandy Springs.

During the past year, Georgia branch banking law was liberalized. Effective January 1, 1971, it permits banks to expand directly in counties (formerly limited to the cities) where they already have offices. Since C&S, First National and Trust Company have branch offices in both DeKalb County and Fulton County, both counties are completely open to branching by the three banks.

III. Standard For Evaluating These Acquisitions

In considering the competitive effect of these mergers, the crucial question must be whether C&S established and controlled the banks which it now seeks to acquire so that they could never reasonably be regarded as sources of present or future competition. 1/ This requires resolution of some fundamental factual questions. When, if ever, did C&S have "control" over these banks? What is the extent and likely permanence of that control? Answers to these questions have not yet been developed, either in the merger applications, our previous competitive reports, or elsewhere.

1/ The possibility of these banks as sources of present or future competition should be evaluated with a view toward the importance of preserving or promoting the development of competitive alternatives in Fulton and DeKalb counties to the few institutions which presently dominate commercial banking in the Atlanta area. Where a market is sorely in need of the development of additional competitive factors, even less immediate probabilities become significant in assessing the competitive effects of a proposed merger. Cf. United States v. Penn-Olin Chemical Co., 378 U.S. 158 (1964).

These facts are of crucial importance. We believe that the mere existence of an "affiliate" relationship between merging banks should not serve to release the merger from the usual competitive considerations applied by the Corporation (or from the standards of Clayton Act § 7). For example, where there is a cooperative venture between a leading metropolitan bank (such as C&S) and citizens of an area desiring to establish a new bank, that new bank may still be--or subsequently become--a significant independent competitive factor. Even where the metropolitan bank owns a small percentage of the "affiliate's" stock as part of the cooperative venture, this fact does not prevent the new suburban bank from separately offering and pricing its banking services. Such a new bank, unlike the typical bank holding company subsidiary, normally retains independent decision-making capability--as illustrated by the Stone Mountain situation described above. Accordingly, it is appropriate to treat such a new bank as a separate commercial entity and to evaluate the impact of a subsequent merger in the light of this fact. This approach is consistent with Supreme Court decisions that "affiliated" corporations under some degree of common ownership or control can be treated as separate entities subject to the antitrust laws. See, e.g., Timken Co. v. United States, 341 U. S. 593, 595 (1951). Likewise, the fact that there is a degree of common control between the two merging banks does not mean that there may not be elimination of present or future competition between them. Absent complete control, the "affiliated" bank may decline to follow the wishes of its large Atlanta sponsor.

We recognize that where a metropolitan bank in reality establishes a new bank (rather than assisting others in establishing such a bank), the new bank may be in effect an extension or branch of the existing bank. This occurs where it, albeit indirectly, organizes, controls, and finances the new bank. In such circumstances, a subsequent merger of the "affiliated" bank into the large metropolitan bank is not likely to have competitive significance. Absent this situation of original and continuing control, however, we believe that the new "affiliated" bank should be considered an independent competitive factor and any subsequent acquisition or merger evaluated according to traditional standards. The presumption should be one of independence, with the burden placed on the applicant to prove that it established the new bank and controlled it from the outset.

We reiterate that, for purposes of this analysis, actual control must have some degree of permanence. De facto control by informal arrangements with independent individual shareholders simply does not meet this standard for actual continuing control, since such relationships could change with death or other changes in personal relationships (as in the Stone Mountain situation). Continuing control, by contrast, would have to rest on actual ownership of stock or contractual arrangements that would negate any reasonable possibility that the "affiliated" bank would become independent of its sponsor at some point in the future. If control falls short of this level of stability and permanence, a merger would permanently foreclose the existing possibility of future competition; and, depending on the structure of the market and the banks' position in it, such foreclosure could have a significantly adverse effect on competition. Cf. U.S. v. El Paso Natural Gas Co., 376 U.S. 651 (1964). See also Kohn and Carlo, Potential Competition: Unfounded Faith or Pragmatic Foresight? (N.Y. State Banking Dept. 1970). These factors are evaluated in the specific C&S context in the next section.

IV. The Standard Applied

A. The Parties and the Relationship Between Them

C&S is the largest bank in Atlanta and in the State of Georgia. C&S and its subsidiaries (C&S Emory, C&S DeKalb and C&S East Point) have total deposits in the Atlanta area of over $790 million and account for over 26% of Atlanta area deposits, over 28% of Fulton County deposits, and over 25% of DeKalb County deposits. 2/

C&S owns 5% of the outstanding stock in all six "affiliates" which are the subject of merger proposals. C&S North Fulton and C&S Sandy Springs together have deposits of $23.5 million. The four DeKalb County "affiliates" together have total deposits of $48.2 million.

2/ Unless otherwise noted, all deposit data is as of June 30, 1970.

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C&S owns only 5% of the outstanding stock of each of these banks. C&S officers have stated publicly, before the Federal Reserve Board and a Committee of the Georgia Legislature, that they do not control any of these banks. There are no representations to the contrary, either in the applications or elsewhere. Large blocks of the stock in each of these banks are owned by officers, directors, and employees of the banks themselves, and there is no evidence presently available indicating that these individuals are either acting for or controlled by C&S. Thus, the presumption must be that these "affiliates" were not established and controlled down to the present time by C&S. This being so, our previous analysis and conclusions as to the competitive effects of these mergers (except for C&S Tucker) appear to have been inadequate. We now feel that the Corporation should treat all the proposed mergers as mergers between separate banking organizations, unless C&S can establish that it meets the standard set forth in Section III above. 3/

We applied that standard in evaluating the First National mergers. The two First National mergers challenged were situations very similar to that of C&S Tucker, where the Atlanta bank had become affiliated with a previously totally separate banking competitor. As in the case with C&S Tucker, we felt that the affiliation itself had anti-competitive effects which would be made permanent by the merger. The two First National mergers which we did not challenge appeared to be instances of original and continuing control. 4/ First, First National was the moving force in

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3/ Of course, there may well be degrees of "control" present in these situations which do not qualify as control for purposes of analyzing the competitive effects of a merger, and yet may raise competitive problems by reducing present and future competition between the banks absent regulatory approval of the proposed mergers.

4/ Letters to Comptroller of the Currency from Department of Justice on proposed mergers of First Bank of South DeKalb and First National Bank of Doraville into First National Bank of Atlanta, dated December 29, 1970.

establishing the two "affiliated" banks in question. Secondly, almost all of the shareholders of these banks, including a substantial majority if not all of their directors, financed their stock purchases with loans from First National. These loans were represented by notes payable on demand and secured by the pledge of the stock purchased; the principal amounts of the loans were not subject to a repayment schedule, and interest on the notes was accrued but not paid. Finally, the shares were subject to an option agreement, either written or based on an oral understanding, in favor of First National. 5/

B. C&S Emory Merger Proposals - C&S Expansion in DeKalb County

1. The Banks

C&S Emory operates its main office and two branches in Emory, DeKalb County. It is a C&S subsidiary in which C&S Holding owns over 95% of the bank's stock. It has total deposits of $36.9 million, about 13% of total DeKalb County deposits.

C&S Chamblee operates two offices in DeKalb County. It has deposits of $16.9 million, about 5.9% of DeKalb County deposits.

C&S Park National operates one office in DeKalb County. It has deposits of $8.2 million, about 2.8% of Dekalb County dep

C&S South DeKalb operates one office in DeKalb County. It has deposits of $3.2 million, about 1.1% of DeKalb County deposits.

C&S Tucker operates two offices in DeKalb County. It has deposits of $19.9 million, about 6.9% of DeKalb County deposits.

5/ See Application of First National Bank of Atlanta to merge with First Bank of South DeKalb, Merger Agreement, page 2; Letter from R. J. Blanchard, Deputy Comptroller of the Currency, to D. I. Baker, October 26, 1970, enclosing letter from McChesney H. Jeffries, Attorney for First National Bank of Atlanta, to Mr. Blanchard, dated October 20, 1970.

2. The Market

DeKalb County (1970 population 414,000) is situated to the east of Atlanta and is a part of the Atlanta Standard Metropolitan Statistical Area (SMSA) which is one of the fastest growing areas in the country. DeKalb County has actually grown faster than the Atlanta SMSA generally, the former having grown in population by 62 per cent over the past ten years compared to 35 per cent for the latter. Although DeKalb County was once basically a "bedroom" suburb of Atlanta, the population increase has been accompanied by an even larger growth in the number and size of commercial and industrial firms. Between 1958 and 1967 the number of retail establishments has increased by 48.4%, total retail sales by 187.0%, employment payroll by 233.2%, and paid employment by 123.8%. Wholesale trade has increased even more impressively. Between 1954 and 1963 the number of wholesale establishments increased by 200.8%, total wholesale sales by 413.1%, total wholesale payroll by 414.2%, and the number of paid employees by 255.1%. More recent statistics would reveal even more dramatic increases. Thus, it now appears that DeKalb is achieving a considerable degree of economic independence from the City of Atlanta.

DeKalb County is a relevant market within which to evaluate the C&S Emory acquisitions for several reasons. First, the acquired banks operate and can only operate in DeKalb County, and DeKalb County has been achieving a degree of economic independence from Atlanta; i.e., its residents have more and more places in the County to work, shop, etc., without going to the city. State branching law now permits county-wide branching, but prohibits banks with offices only outside the County from opening offices in it and prevents banks with offices only in DeKalb County from opening offices outside. Thus, the only area of significant competive overlap is and will be within DeKalb County. 6/ Second, although the banks sought to be acquired at present derive the bulk of their deposits from relatively small portions of the County, they have scattered accounts throughout much of it, indicating that the area in which they compete for business extends beyond their primary service areas. There is, according to the application, competition between the merging banks, even accepting the limited primary service areas advanced in the application.

6/ See United States v. Philadelphia National Bank, 374 U.S. 321, 360-62 (1963).

Consequently, the extent of direct competition is probably understated by using the county. Third, it seems likely that with the Atlanta banks branching throughout the County, banks like the "affiliates" will be forced to open new branches or merge with other independent banks in order to continue to grow. The broadest area within which they can expand is DeKalb County. Such expansion would increase existing competition between C&S and the "affiliates." It would also increase competition generally among the banks operating in the county and at the same time insure that the county does not become highly concentrated like the rest of the Atlanta area. These benefits which would be enjoyed in DeKalb County will be denied to the county if viable banks like the "affiliates" are allowed to be permanently removed from the scene by the dominant banks. Thus, from the point of view of evaluating the effect of these acquisitions on present and future competition, DeKalb County is an appropriate market. 7/

7/ "[I]n banking [the idea that] the relevant geographical market is a function of each separate customer's economic scale means simply that a workable compromise must be found: some fair intermediate delineation which avoids the indefensible extremes of drawing the market either so expansively as to make the effect of the merger upon competition seem insignificant because only the very largest bank customers are taken into account in defining the market, or so narrowly as to place appellees in different markets, because only the smallest customers are considered."

United States v. Philadelphia National Bank, supra, at 361.

3. The Competitive Effects of the Proposed C&S Emory Acquisition

The following chart lists the banks which operate in DeKalb County, their total deposits, their share of total county deposits and their affiliation, if known:

Bank	Deposits (in millions)	% Share	Affiliation
C&S	$ 12.7	4.4	C&S
C&S DeKalb	23.2	8.0	C&S
C&S Emory	36.9	12.8	C&S
C&S Chamblee	16.9	5.9	C&S
C&S South DeKalb	3.2	1.1	C&S
C&S Tucker	19.9	6.9	C&S
C&S Park National	8.2	2.8	C&S
First National	36.5	12.7	FNB
FNB-Glenwood	13.8	4.8	FNB
FNB-Tucker	5.0	1.7	FNB
FNB-Doraville	.8	0.3	FNB
First Bank of South DeKalb	1.3	0.5	FNB
Trust Company	21.6	7.5	Trust Co.
Peachtree B&T	14.8	5.1	Trust Co.
Trust Co. - Bank of DeKalb	19.8	6.9	Trust Co.
Fulton National	37.0	12.8	Fulton
Northeast Commercial Bank	2.3	0.8	Fulton
National Bank of Georgia	-	-	
Citizens Bank of Clarkston	.7	0.2	*
DeKalb County Bank	.6	0.2	*
Peoples Bank of Lithonia	5.9	2.0	
C&S Stone Mountain	7.1	2.5	**
	$ 288.2	99.9	

*/ There is some indication that the Citizens Bank of Clarkston and the DeKalb County Bank are commonly owned or controlled, and that the same person or persons also own or control the Roswell Bank and Fulton Exchange Bank (in Fulton County), and a new bank established in DeKalb County in late 1970, the DeKalb Exchange Bank.

**/ Until recently affiliated with C&S.

DeKalb County is already a concentrated banking market. The four largest banks hold about 65% of total County deposits; the top three hold 53%; the top five about 68%.

DeKalb County

	C&S	First Nat'l	Trust Co.	Top Three
Present Share	25.2	13.5	14.4	53.1
Affiliates	16.7	6.5	5.1	28.3
Total After Mergers	41.9	20.0	19.5	81.4

The "affiliates" which C&S seeks to merge into C&S Emory have total deposits of $48.2 million and, as the chart shows, account for 16.7% of total county deposits. Should the mergers be consummated, C&S would increase its market share to 41.9% of DeKalb County deposits. The share held by the three largest banks would increase from 53% to 81%. In addition, present and future competition between these "affiliates" and C&S would be permanently eliminated.

C. C&S East Point Merger Proposals--C&S Expansion in North Fulton County

1. The Banks

C&S East Point operates its main office and one branch in East Point, in the southern part of Fulton County. It is a C&S subsidiary in which C&S Holding owns about 90% of the bank's stock. It has total deposits of $25.9 million.

C&S North Fulton operates one office at Roswell in the northern part of Fulton County. It has deposits of $5.8 million.

C&S Sandy Springs operates one office at Sandy Springs, also in the northern part of Fulton County. It has total deposits of $17.7 million.

2. The Market

North Fulton County is the area most immediately affected by the proposed C&S East Point acquisitions. Fulton County

(population 59?,000) is the largest of the five counties in the Atlanta SMSA. Eighty-five per cent of Fulton County's population reside in the city of Atlanta, which has developed into the economic center of the Southeast. Fulton County is bisected by the city of Atlanta and thereby divided into three fairly distinct parts--the city, North Fulton County, and South Fulton County. The county's growth, traditionally centered in Atlanta, has now begun to spread out into the suburban areas north and south of the city. Thus, the portion of the county's population located in North Fulton County has increased from 3.3% in 1950 to 9.2% in 1970 (while that in South Fulton County has increased from 12.4% to 16.9% in the same period).

North Fulton County has many of the same economic characteristics which make DeKalb County a rapidly growing portion of the Atlanta metropolitan area. It seems to be distinct, however, from DeKalb County for purposes of banking analysis because Georgia branching laws allow banks located in either Fulton or DeKalb to branch only within their respective county. Moreover, for purposes of such analysis, North Fulton County has traditionally been separated from the city of Atlanta by branching restrictions; until January 1, 1971, Atlanta banks were prohibited from branching into North Fulton County and vice-versa. For a substantial number of people, North Fulton County banks are the sole reasonable banking alternatives because of convenience of location. Therefore, North Fulton County is an appropriate market in which to evaluate the effect of these acquisitions on present and future competition.

3. The Competitive Effects of the Proposed C&S East Point Acquisitions

The city of Atlanta is a highly concentrated banking market, in which the three largest banks control over 70 percent of all deposits. The suburban areas around Atlanta, including the high growth areas of DeKalb County and North Fulton County, are not now so structured. However, if all pending mergers were consummated, those suburban areas would become the mirror image of Atlanta in terms of banking market structure. This development would foreclose present and future competition.

The following chart lists the banks which operate in Fulton County, their total deposits, their share of total county deposits, and their affiliation, if known:

Bank	Deposits (in millions)	% Share	Affiliation
C&S	$ 705.9	27.4	C&S
C&S East Point	25.9	1.0	C&S
C&S Sandy Springs	17.7	0.7	C&S
C&S North Fulton	5.8	0.2	C&S
First National	699.8	27.2	FNB
Trust Company	454.5	17.6	Trust Co.
Trust Co.-Bank of Sandy Springs	4.2	0.2	Trust Co.
Bank of Fulton County	24.4	0.9	Trust Co.
Fulton National	384.6	14.9	Fulton
Bank of the South	12.1	0.5	Fulton
National Bank of Ga.	124.0	4.8	NBG
Peoples American Bank	27.5	1.1	
Citizens Trust Co.	22.0	0.9	
Georgia Savings Bank	12.4	0.5	
Mercantile National Bank	6.3	0.2	
Citizens Bank of Hapeville	16.2	0.6	*
Fairburn Banking Co.	6.9	0.3	
First-Palmetto Bank	2.8	0.1	
Roswell Bank	15.3	0.6	**
Fulton Exchange Bank	8.3	0.3	**
	$ 2,576.6	100.0	

*/ We have some information which would indicate that the Citizens Bank of Hapeville is affiliated with C&S.

**/ There is some indication that the Roswell Bank and Fulton Exchange Bank have recently come under common ownership, and that the same person or persons also own or control the DeKalb County Bank, the Citizens Bank of Clarkston and a new bank established in late 1970, the DeKalb Exchange Bank, all located in DeKalb County.

Five of these banks have offices in North Fulton County, which seems the more appropriate area to consider. These five include the two which C&S seeks to acquire--C&S North Fulton and C&S Sandy Springs. Between them they hold 45.8% of total deposits held by banking offices located in North Fulton. If C&S were to acquire these two banks, it would immediately assume a dominant position in North Fulton County, and greatly assist in transferring the concentrated market structure of Atlanta to the suburban area of North Fulton County. Cf. Procter & Gamble, supra. In addition, the merger would eliminate two of the very limited number of potential independent bank alternatives existing in the suburban areas of Fulton County.

C&S clearly has the capability to branch de novo into Fulton County suburbs, and since January 1, 1971, it is legally able to do so. Since C&S holds the dominant position in Atlanta banking, any move by it into the newly opened suburbs by acquiring banks with leading positions will have a significantly adverse effect on present and future competition in those areas.

V. Conclusion

The proposed mergers would eliminate present and future competition between (i) C&S and its subsidiaries, and (ii) the banks which it seeks to merge into its subsidiaries. Consummation of these mergers would allow C&S, which already is the dominant bank in Atlanta, to transfer its dominance to North Fulton County, and to increase its share of DeKalb County deposits from 25% to over 41%. (Even within the five-county Atlanta SMSA, an area which clearly overstates the market, these mergers would increase C&S' leading share from 26% to 28%.)

Moreover, this merger must be evaluated in the context of the other pending merger proposals of First National and Trust Company. If all the proposed mergers were consummated, these banks which now dominate Atlanta would, together or separately, obtain positions of dominance in both North Fulton County and DeKalb County. These three Atlanta banks account for 53% of DeKalb County deposits now and would control almost 82% if all the proposed "affiliate" mergers were consummated. The same three banks' control of North Fulton County would increase from 0% to over 50%. These proposed mergers, involving three banks accounting for 54% of North Fulton County's deposits and nine banks accounting

for over 28% of DeKalb County's deposits, would forever eliminate the possibility that significant numbers of Fulton or DeKalb "affiliates" of the major Atlanta banks could become independent sources of new competition. 9/ If they were all approved, few significant sources of deconcentration would remain in either Fulton or DeKalb Counties.

For the foregoing reasons, we believe that the C&S mergers would have a significantly adverse effect on competition in North Fulton County, DeKalb County and the Atlanta area generally.

A summary of this report is attached.

Sincerely yours,

RICHARD W. McLAREN
Assistant Attorney General
Antitrust Division

By: Donald I. Baker
Deputy Director of Policy Planning

9/ The federal regulatory agencies could affirmatively encourage such independence for affiliates by denying any Atlanta bank branches in any suburban area in which it has an "affiliate" until it has eliminated present restraints on competition flowing from stock ownership, director interlocks, and so forth.

SUMMARY OF THE REPORT OF THE DEPARTMENT OF JUSTICE ON THE COMPETITIVE FACTORS INVOLVED IN THE PROPOSED MERGERS OF CITIZENS AND SOUTHERN BANK OF EAST POINT, EAST POINT, GEORGIA, CITIZENS AND SOUTHERN BANK OF NORTH FULTON, ROSWELL, GEORGIA AND CITIZENS AND SOUTHERN BANK OF SANDY SPRINGS, SANDY SPRINGS, GEORGIA AND CITIZENS AND SOUTHERN EMORY BANK, DeKALB COUNTY (P.O. ATLANTA), GEORGIA, CITIZENS AND SOUTHERN BANK OF CHAMBLEE, CHAMBLEE, GEORGIA, CITIZENS AND SOUTHERN BANK OF TUCKER, TUCKER, GEORGIA, CITIZENS AND SOUTHERN PARK NATIONAL BANK, ATLANTA, GEORGIA AND CITIZENS AND SOUTHERN DeKALB BANK, DECATUR, GEORGIA

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Moreover, this merger must be evaluated in the context of the other pending merger proposals of First National and Trust Company. If all the proposed mergers were consummated, these banks which now dominate Atlanta would, together or separately, obtain positions of dominance in both North Fulton County and DeKalb County. These three Atlanta banks account for 53% of DeKalb County deposits now and would control almost 82% if all the proposed "affiliate" mergers were consummated. The same three banks' control of North Fulton County would increase from 0% to over 50%. These proposed mergers, involving three banks accounting for 54% of North Fulton County's deposits and nine banks accounting for over 28% of DeKalb County's deposits, would forever eliminate the possibility that significant numbers of Fulton or DeKalb "affiliates" of the major Atlanta banks could become independent sources of new competition. If they were all approved, few significant sources of deconcentration would remain in either Fulton or DeKalb Counties.

For the foregoing reasons, we believe that the C&S mergers would have a significantly adverse effect on competition in North Fulton County, DeKalb County and the Atlanta area generally.

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA

GX-104

UNITED STATES OF AMERICA, Plaintiff, v. CITIZENS AND SOUTHERN NATIONAL BANK, et al., Defendants.	)	Civil Action No. 15823 Filed: November 2, 1971

AFFIDAVIT OF DR. SAMUEL L. SKOGSTAD

Comes now Samuel L. Skogstad who on his oath deposes and states as follows:

I received B.A. and M.A. degrees in Economics from Florida State University, and a Ph.D. in Economics from Washington University, in St. Louis.

I was employed as "Financial Economist" in the Federal Reserve Bank of Atlanta from July 1963 until September 1964. Since September of 1964, I have been a member of the faculty of the Department of Economics at Georgia State University. From August 1966 to August 1968, I was on Leave of Absence from Georgia State, serving as Economic Advisor and later Senior Economic Advisor in the U.S. AID Mission to Chile.

At the present time I hold the rank of Professor of Economics, and I am coordinator of graduate programs in Economics at Georgia State University. My primary teaching areas are Monetary & Banking Theory and Policy. I designed and have taught for the past two years a graduate course called Banking Structure and Competition.

I have served on or testified before a number of economic study and planning commissions, including serving as a member

of the Advisory Council on Monetary and Fiscal Policies of the Coastal Plain Regional Commission. The work of the Council included an examination of the role of banks in promoting economic growth. I was also invited to testify before the Georgia Bank Holding Company Study Committee of the Georgia legislature (on the Georgia branch-banking law), and before the President's Commission on Income Maintenance (to prepare a statement for the record giving an economic and demographic profile of the Atlanta area).

I have been asked by the plaintiff to conduct a study to determine what geographic area(s) would be appropriate areas within which to analyze the competitive effects of the proposed mergers which are the subject of this litigation. In order to accomplish that task, I have conducted a rather intensive study of the geographic distribution of banks and bank customers in the Atlanta metropolitan area. The data on which the study is based show, for offices of Fulton and DeKalb County banks, the number and dollar volume of various classes of deposits, by size class and by the ZIP code address to which statements are mailed. The study focused on the place of origin of demand deposits in accounts with balances of $1,000 or less (hereafter "small accounts"). 1/ The small-deposit category was chosen because it is the relatively small, household and business customers who are the most numerous members of banking markets and who are most affected by the degree of concentration in banking

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1/ The data were provided to the plaintiff by the banks pursuant to subpoenas. Because the data were extremely voluminous, I arranged to have them tabulated in a more usable, though still basic, form. The results of these ZIP code tabulations, prepared under my direct supervision, are represented by plaintiff's proposed exhibits GX 42 through 75. I utilized these tabulations in preparing various of the tables set forth herein.

markets. Demand deposits were chosen because it is in providing demand deposit services that commercial banks are unique among financial institutions. Moreover, on the lending side of commercial banking, the most likely group of potential borrowers for any given bank is its demand deposit customers.

The study involved three essential steps. First, I developed conceptual criteria for determining which specific customers and which specific banks to include in a particular banking market. The second step was to examine available data in the light of the criteria developed in step one, in an attempt to determine a reasonable approximation of the number and sizes of bank markets in and around Atlanta. The third step was to interview bank officials in an attempt to evaluate my interpretation of the data to which I had access, and to gain information on policies and practices with respect to which I had no data.

To put precise geographic boundaries on a market is a difficult--perhaps impossible--task. To draw boundaries that represent a reasonable approximation of a market, however, is somewhat more manageable. One approach is to reach a first approximation by selecting a geographic area that, on the basis of professional judgment, appears likely to contain most of the customers in some market. This approach leads to a customer-oriented delineation of a market. For this first approximation, we can hypothesize that the sellers in this market are contained within the same boundaries as the buyers.

The next step is to apply criteria drawn from the

economic theory of markets to determine whether this geographic area is unreasonably small or unreasonably large. 2/ The first approximation of a market area can be adjusted until an area is found that comes as close as possible to a representation of an economic market.

It is worth noting that there is the possibility of the existence of two distinct, adjacent, market areas in which identical terms of exchange are found. In such a case, it may be difficult to distinguish one market from the other. Moreover, it may be found that a single firm sells in both markets. In this case, the firm's market power in one market may influence the terms on which consumers may buy in another. The extent to which events in one market influence buyers and/or sellers in another depends on the physical proximity of the two, the mobility of buyers and sellers in the two markets, and, crucially, the time period of the analysis. In general, as time passes, the effects of causes originating in a given market are transmitted to increasingly distant markets. This may occur because some consumers are able to move back and forth from one market to another, or through communication media, or any number of other factors.

In general, it is reasonable to presume that buyers will spend more time and effort "shopping around" for an

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2/ The qualification in terms of reasonableness is necessary to prevent markets for most goods and services from becoming indefinitely large. If, for example, an Atlanta bank has 10 customers in the State of Washington, these customers should, in principle, be counted as members of the buyers' side of the market in which that bank sells. However, if the boundaries of that market are drawn to include such customers, the boundary would take in thousands of additional banks. Those banks in turn would serve millions of additional customers, and so on ad infinitum. Thus it is probably impossible, in any meaningful sense, to find perfect correspondence between an economic market and a specific, limited, geographic area.

item that is important relative to the family budget than for one that represents a relatively minor outlay. Thus, for example, we would expect people to be willing, in general, to travel farther to save 10 or 15 percent on an automobile than to save a proportional amount on a package of cigarettes.

The same principle is operative in banking markets. Borrowers (or lenders) of relatively large sums are likely to be more influenced by a given interest rate differential than borrowers (or lenders) of small sums. By the same token, checking account customers would not be expected to travel great extra distances to avail themselves of small service charge variations.

To illustrate, let us examine a plausible example. Consider an account with a minimum balance below $250, on which 25 checks are written. A bank that charges $1.00 plus $.10 per check service charge on such an account would collect a total of $3.50 for the month. Now imagine a bank 5 miles farther from the customer's residence or place of employment, with service charges of $.50 per month and $.05 per check. This bank's charge for the same service would be $1.75 or 50 percent less. However, note that even if the customer's time is valued at nothing at all, and travel cost is calculated at the modest rate of $.10 per mile, 2 round-trips to the bank would more than consume the savings on service charge. On this service, then, the mere 5 miles of additional travel is of substantial significance to such a customer.

Thus, economic theory leads us to expect that, from the point of view of most customers, banking markets cover

a relatively small geographic area. 3/ However, we need not rely on theory alone. Numerous empirical studies have demonstrated significant differences in the terms of exchange from one small geographic area to another. For example, George Kauffman found significance in one-county banking markets in Iowa. 4/ Schull and Horvitz found that market size is influenced by state banking laws. 5/ Schweiger and McGee found differences in loan rates within cities. 6/ In short, there appears to be agreement among students of banking that the market for small, retail-type commercial bank services is essentially local in character.

Another difficulty is important to note. It is possible to identify two markets that are spatially separated, but that present elements of interaction. This would be expected if there were many adjacent markets. In such a case the banks in one market might adopt a policy that would attract customers from each of several markets. Consider markets 1, 2, and 3 with market 2 separating 1 and 3. If the banks in

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3/ On this point, for example, Professor Kreps has written: "Competition in some product lines (within banking) may be national in scope, and in others regional, although for most banks competition is largely, if not entirely, local." (My parentheses.) Clifton H. Kreps, Jr. "Characteristics of Local Banking Competition," in Banking and Monetary Studies, Deane Carson, ed., Comptroller of the Currency, 1963.

4/ Kaufman, George G., "Bank Market Structure and Performance: The Evidence from Iowa". Southern Economic Journal, (April 1966).

5/ Schull, Bernard and Horvitz, Paul. "Branch Banking and the Structure of Competition". National Banking Review, (March 1964).

6/ Schweiger, Irving, and McGee, John S., "Chicago Banking," The Journal of Business, July, 1961.

market 1 should, say, lower interest rates on consumer loans, the banks in market 3 might feel sufficiently insulated from market 1 to ignore the change. However, if the banks in market 2 adopted the policy, the banks in market 3 might then feel compelled to follow suit also. In such a case, there might be sufficient interaction between the markets to make it appropriate to consider the entire area encompassing them as well as the area encompassing each market in assessing the market power of sellers operating in any or each of the markets.

Finally, it should be pointed out that a given customer (or group of customers) may choose among banks in two or more spatially separated areas, while other customers residing in the same area may have reasonable and convenient access to banks in only that area. For example, one group lives in area A and works in area B, while the other group lives and works in area A. Thus, the "market" will be viewed differently by the two groups, and the banks in the two areas may behave differently. Their actual behavior depends on how many customers in area A view the banks in the two areas as alternatives, and how important such customers are to the banks involved.

With this as an analytical framework, my market analysis began with what would, in the context of this litigation, appear to be the largest conceivable realistic banking market, the Atlanta SMSA. The SMSA includes five counties: Fulton, DeKalb, Clayton, Cobb and Gwinnett. If this area is in fact a realistic market, we should find that, at a minimum, there are no significant groups of banks and bank customers which are insulated from market forces in other parts of the area. On the other hand, if there are such groups in significant numbers, the SMSA is not a realistic banking market. In fact, an examination of the pattern of population distribution, movement

and banking activity in the SMSA leads to the conclusion that it is not a realistic banking market.

According to 1970 Census figures, the population of the Atlanta SMSA was 1,390,164. Table 1 shows the distribution of the SMSA population.

Table 1

Distribution of Population: Atlanta SMSA

	Population	Percent of Total SMSA Population
Total SMSA	1,390,164	100
Fulton County	607,592	44
DeKalb County	415,387	30
Cobb County	196,793	14
Clayton County	98,043	7
Gwinnett County	72,349	5
Sub-Areas		
City of Atlanta	496,973	36
In Fulton	[450,286]	
In DeKalb	[46,687]	
Fulton Outside Atlanta	157,306	11
DeKalb Outside Atlanta	368,700	27

Source: 1970 Census of Population and Housing (PCH(1)-14); Census Tracts, Atlanta, Ga. SMSA. U.S. Department of Commerce, March 1972, Table P-1.

As these data reveal, the population of the SMSA is heavily concentrated in Fulton and DeKalb Counties, which claim 74 percent of the total.

The socio-economic center of the area is the City of Atlanta. Census Bureau estimates for 1970 show that 287,783 people reside in the SMSA and work in Atlanta. Of this total, 55 percent live in Fulton County, 29 percent live in DeKalb County, 8 percent in Cobb County, 5 percent in Clayton County, and 2 percent in Gwinnett County.

The city limits of Atlanta place most of the city in Fulton County. However, the eastern boundary of the city crosses the county line into DeKalb County. The DeKalb portion of Atlanta contains about 47,000 residents, or 9 percent of the city's population. This "straddling" of the county line by the City of Atlanta is symbolic of the socio-economic unity of the adjacent areas of Fulton and DeKalb Counties. The border between Fulton and DeKalb Counties lies just about 2 miles east of the heart of the downtown business district. Thus, the growth of the city has naturally spilled over from Fulton County into DeKalb County and forms an important bond between the two political entities.

The relationship between Fulton and DeKalb and the three peripheral counties of the SMSA--Clayton, Cobb, and Gwinnett--contrasts sharply with that between Fulton and DeKalb. Two specific characteristics of the contrast are of particular importance. First, the boundaries of Clayton and Cobb Counties are about 7 miles from the downtown Atlanta business district, and the Gwinnett County line is over 13 miles away. Moreover, traveling from Atlanta outward, these boundaries are reached after passing from the high density commercial center of the area through areas of successively lower population density. The boundary between Fulton and DeKalb, on the other hand, is principally inside the City of Atlanta and about 2 miles from the center of the business district.

The second important point of contrast is that the principal towns and cities of the peripheral counties are socially, politically and, to a considerable extent, economically distinct from Atlanta. Thus, for example, a resident of Gwinnett County is likely to consider Lawrenceville or Buford his home, and not Atlanta. The same is true of Austell

or Acworth or Marietta in Cobb County, and Jonesboro in Clayton County. Even for many of those who reside in the peripheral counties and work in Fulton or DeKalb Counties, the civic, social, religious and commercial institutions with which they identify are separated by substantial distances from Atlanta and its immediate environs.

Convenience of location is by far the most important factor for most people in choosing where they will bank. Most of the banking market literature I have read on the subject asserts that ordinary ("small") banking customers generally choose a bank that is near their residence or their place of employment. My interviews with local bankers have supported this proposition. For persons who do commute long distances to work, however, it seems possible that banks widely separated in space may constitute convenient alternative choices. Thus, while the geographic and economic facts discussed above tend to suggest that the SMSA is not a realistic banking market, we must test the possible significance of these spatially separated banking alternatives.

The important measure here is not whether it is mechanically possible for workers to bank near their place of employment, but whether in fact they actually find it convenient to do so. The best available indicator of the extent to which they do find it convenient is the extent to which they do actually bank outside the home county.

Data published in the 1970 Census of Population and Housing (Table P-2) show journey-to-work patterns for the Atlanta SMSA. A summary of these patterns for workers residing in Clayton, Cobb and Gwinnett Counties is presented in Table 2 below.

Table 2

County	Population	Employed Labor Force	Labor Force Working In: Fulton No.	%	DeKalb No.	%	Other SMSA No.	%	Home County No.	%
Gwinnett	72,349	28,988	6,622	22	9,394	32	739	3	9,400	32
Clayton	98,043	40,373	21,674	53	2,737	6	580	1	11,566	28
Cobb	196,793	82,655	27,002	32	4,069	4	834	1	44,639	54
Total	367,185	152,016	55,208		16,200		2,173		65,605	

Source: 1970 Census of Population and Housing. Tables P-1 and P-2 were the sources of the data used to prepare this table. Fulton County totals include those residents of the City of Atlanta in Fulton County. Atlanta residents in the DeKalb section of the city are included in DeKalb County totals.

These three peripheral counties supplied 71,408 workers to Fulton and DeKalb labor markets. This represented a relatively small share of all SMSA residents who reported working in Fulton and DeKalb Counties (16 percent). However, from the point of view of the work forces in the peripheral counties, the Fulton job market is of great importance. The DeKalb job market is of great importance only to Gwinnett County residents. Only among workers in Cobb County do we find less than half the labor force employed in Fulton or DeKalb.

These statistics suggest that the Fulton or DeKalb banks may indeed be convenient alternatives for a significant percentage of Gwinnett residents, while Fulton banks could be convenient alternatives for a significant percentage of Cobb and Clayton residents.

In Fulton County and DeKalb County banks, there are 9.93 small checking accounts ($1,000 or less) with known Fulton or

DeKalb ZIP codes for each person who resides and works in those counties. Taking this as a norm for accounts per employed person, then census data on employed persons (Table 2) can be multiplied by 0.93 to arrive at an estimate of total small accounts with peripheral county ZIP codes. These estimates are:

Clayton - 37,547

Cobb - 76,869

Gwinnett - 26,959

Based on these estimates, we can calculate the significance of Fulton and DeKalb banks to residents of those counties. Such calculations are shown in Table 3 below.

Table 3

	Number of Small Accounts			Percentage Distribution	
County	Total	In Fulton and DeKalb Banks	In Home County Banks	In Fulton and DeKalb Banks	In Home County Banks
Clayton	37,547	14,836	22,711	40	60
Cobb	76,869	17,881	58,988	23	77
Gwinnett	26,959	6,563	20,396	24	76

This table indicates that while many of the peripheral county residents do bank in Fulton or DeKalb Counties, banks in Clayton, Cobb and Gwinnett Counties are the principal suppliers of commercial banking services to the majority of residents of those counties. Moreover, Table 4 indicates that, compared to all small-checking account customers with SMSA ZIP codes, customers who reside in the peripheral counties are quantitatively quite unimportant to Fulton and DeKalb banks.

Table 4

Small Checking Accounts in Banks
Located in Fulton and DeKalb Counties

County of Origin	Number of Small Checking Accounts in Fulton and DeKalb Banks with Known ZIP Codes 7/	Percentage of All Small Checking Accounts in Fulton and DeKalb Banks
Clayton	14,836	3.5
Cobb	17,881	4.2
Gwinnett	6,563	1.6
Fulton	193,328	46.0
DeKalb	145,039	34.5

80.5%

From these data, one can reach certain conclusions. First, there are many potential banking customers who live in Clayton, Cobb or Gwinnett Counties who, because of regular commuting, would appear to have reasonable and convenient access to banks in Fulton or DeKalb Counties. From the point of view of banks in the peripheral counties, these customers are numerically important. However, many of those potential customers do not actually bank with Fulton or DeKalb banks. This tends to undercut the significance of the actual number of commuters as an influence on the buyers' side of Fulton and DeKalb banking markets.

Second, a very significant number of banking customers in Clayton, Cobb and Gwinnett Counties do not have reasonable and convenient access to Fulton and DeKalb banks since they do not work in those counties. Moreover, those residents of

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7/ May include some accounts of political entities and other special category accounts. Excludes accounts with unknown ZIP codes or ZIP codes outside SMSA. Since these are included in the total, percentages do not add to 100. Base is 420,212 accounts.

the peripheral counties who do buy from Fulton and DeKalb banks are not of sufficient importance to those banks to induce them to respond to the needs or demands of peripheral county customers.

Third, given these facts, it would seem likely that banks in Clayton, Cobb and Gwinnett Counties would tend to respond only to those banks in Fulton and DeKalb Counties which in fact are reasonable and convenient alternatives for residents of the peripheral counties. My interviews with peripheral county bankers gave the impression that they tend to respond only to the large downtown Atlanta banks, and paid little or no attention to the other Fulton or DeKalb banks. The combination of these interviews and these statistics suggest that only the large downtown Atlanta banks are <u>in fact</u> convenient alternatives to commuter residents of the peripheral counties. Data supplied by Atlanta banks show that of the accounts known to have peripheral county ZIP codes, the four largest Atlanta banks claim 71 percent.

Because of the response of peripheral county banks to large downtown Atlanta banks, the large downtown Atlanta banks apparently do have some influence on price and quality of service in the peripheral counties. This influence, however, is not balanced by reciprocal interaction from Fulton and DeKalb County banks. Because the customers of these banks who reside in Clayton, Cobb and Gwinnett Counties are quantitatively unimportant in comparison to all the customers of Fulton and DeKalb banks, these banks would not be likely to react to pricing changes in these peripheral counties. Bankers in these counties believe, based on my interviews, that their policies can change without inducing a response from the banks in Fulton and DeKalb. These bankers

expressed the view that their response to Atlanta banks is made necessary by the broad-area dissemination--through advertising on television and in newspapers--of information on major changes in Atlanta banking policies. The concern they expressed is that their public relations would be damaged if they failed to respond to a significant competitive move. This view is consistent with their feeling that they would not gain an appreciable amount of business if Atlanta banks should adopt a policy injurious to customers of Atlanta banks. What this demonstrates in terms of markets, is that customers may move from one market to another but that a physical banking facility is fixed permanently in one market. The interaction represented here reflects customers moving from one market to another, and not the interaction of the banks and customers of a single market. The distinction is significant if, as in this case, the number of customers who move is significant to one group of sellers and not to the other.

Finally, the pattern of commutation shown in Table 2, suggests that small banking customers in any one of the peripheral counties are almost wholly insulated from banking markets in the other two. In my judgment, each of the peripheral counties has at least one banking market that is largely independent of banking markets in any other county. More importantly, such independent markets encompass most of the banking customers in these counties (see Table 3). Thus, banks in Clayton County, for example, do not compete with banks in Cobb or Gwinnett or DeKalb for significant groups of customers. Only to the extent that the large downtown banks are convenient alternatives for some peripheral county residents do banks outside those counties offer any competition to banks within those counties.

In summary, then, the large downtown Atlanta banks have some influence on banks in Clayton, Cobb and Gwinnett Counties; other banks in Fulton and DeKalb have little, if any, influence. Bank customers in Clayton, Cobb or Gwinnett Counties have little or no influence on banks in Fulton and DeKalb Counties, or on banks in the peripheral counties other than those located in the county in which they live. There are a significant number of banking customers in the peripheral counties who have no reasonable and convenient banking alternatives outside their county. Even of those residents who work in Fulton or DeKalb County, many exhibit a preference for banks near their place of residence rather than their place of work. Finally, those counties are spatially distant and, in various other ways, separated from Atlanta and its immediate environs. Considering these factors, I reject the Atlanta SMSA as a reasonable approximation of a banking market.

It therefore would be inappropriate to analyze the competitive effect of the mergers which are the subject of this litigation in a geographic area approximated by the Atlanta SMSA.

Having eliminated the outer reaches of the Atlanta SMSA, we are left with an area encompassing Fulton and DeKalb Counties.

The combined population of these two counties is just over one million. Fulton is the larger of the two both in area and in population. Census reports for 1970 show that over 90 percent of DeKalb and Fulton workers who reported place of employment worked within the two-county area. Of 166,144 DeKalb residents who reported place of employment, 83,590 (about half) worked in Fulton County, while 70,864 (43 percent) worked in DeKalb County. This contrasts sharply

with the movement of Fulton County workers. Of these, 227,150 reported place of work, and 187,165, or 82 percent, worked in Fulton County. Only 18,939 (8 percent) were employed in DeKalb County.

Of the DeKalb County workers employed in Fulton County, 66,420 (79 percent) worked either in the Central Business District or elsewhere in the City of Atlanta. Thus, the penetration of DeKalb residents into Fulton County is more than a thin spillover across county lines. As indicated earlier, Fulton County relies heavily on DeKalb for workers, and DeKalb residents depend heavily on Fulton employers for jobs.

The journey-to-work data cited in Table 2 lead me to predict that many DeKalb and Fulton County residents buy banking services in the same market. This would reflect principally the movement of people from DeKalb County into Fulton County, and not the opposite flow. There is a natural integration of a significant portion of DeKalb County into the economy of the City of Atlanta. It is this integration with Atlanta that imparts a significant homogeneity to the residents and businesses in a broad area extending outward from the city. I have noted earlier that the outlying counties are only marginally integrated at the present time. The substantial independence they retain is one factor that led me to omit them from the Atlanta area market.

Similarly, it appears that there are peripheral portions of Fulton and DeKalb Counties that are substantially separated from the Atlanta economy. I will return to this point later. The issue is raised here to illustrate that economic-geographic separation from Atlanta is one criterion for excluding an area

from the market. I do not, however, mean to argue that the presence of integration defines the entire area as a single market. As we shall see, there is evidence that, in fact, this is not the case.

With the foregoing caveats in mind, let us proceed to a consideration of the banking relationships found in the data for the two counties as a whole.

Table 5 below summarizes the relationship between banks and bank customers in this area, based on accounts whose ZIP code origins were known.

Table 5

County of Origin	Number of Small Deposits* in Banking Offices in		Percent Distribution of Accounts in Banking Offices in	
	DeKalb	Fulton	DeKalb	Fulton
DeKalb	88,384	56,655	92	23
Fulton	8,004	185,324	8	77
Totals	96,388	241,979	100	100

*Data adjusted to remove DeKalb branches of Fulton County banks. Deposits in these branches are included in DeKalb accounts in DeKalb County banking offices. Fulton County deposits in this branch are included as Fulton accounts in DeKalb offices.

The data reveal the following pattern of relationships between banks in these two counties and customers in the counties.

1. DeKalb banking offices draw 92 percent of their Atlanta area customers from DeKalb County, and only 8 percent from Fulton County.

2. DeKalb residents in numbers of consequence to DeKalb banks, bank in Fulton County, but are not of great importance to Fulton banking offices.

3. Fulton banking offices draw 77 percent of their Atlanta area customers from Fulton County and only 23 percent from DeKalb.

4. Fulton residents show little propensity to bank in DeKalb County.

These results strongly support the view that there may be a banking market which, in terms of the customers it includes, covers most of DeKalb County. In other words, DeKalb County cannot be considered to be too small to be a banking market. Obviously, banking offices and consumers on the periphery of the county may also be participants in this market. However, the numbers from within the county are of such magnitude that the excluded buyers and sellers are unlikely to be of sufficient importance to alter the qualitative conclusion that there may be a market for small customers that is roughly bounded by the DeKalb County line.

This does not imply, however, that the markets are unrelated. The DeKalb customers who have accounts in Fulton County banking offices are equivalent to 59 percent of all small-checking accounts in DeKalb banking offices. Therefore, we may conclude that these customers are potentially of greater importance to DeKalb County banks than to Fulton County banks. DeKalb small accounts in some Fulton County banking offices are significant to these offices. However, in the aggregate, DeKalb customers are not likely to be of sufficient importance to Fulton County banking offices to influence the policies of these banks.

These observations lead me to several market-related conclusions. First, if Fulton County bank customers, as a unique group, should demand and receive additional bank

services or services on better terms, we would expect banks in both counties to respond to those demands. DeKalb banks would respond because DeKalb residents who have Fulton banking offices as reasonable and convenient alternatives would have available to them the additional or better services offered by Fulton banks. Since these customers are important to DeKalb banks, DeKalb banks would be expected to offer the same change to prevent them from moving. Therefore, if the degree of competition among Fulton County banks were lessened, a significant number of DeKalb customers would be among the injured small customers, by virtue of the fact that one of the markets to which they have convenient access has become less competitive. They would no longer be the gratuitous beneficiaries of competitive response to the demands of Fulton consumers.

Secondly, if DeKalb customers, as a unique group, should exhibit dissatisfaction with the present level or mix of services, we would expect DeKalb banks to respond. Since these customers are only a small portion of their total customers, we would expect Fulton banks to be only marginally influenced, if at all. Therefore, Fulton banks may be uninfluenced by either the customers or the banks located in DeKalb, except over reasonably long periods of time.

To illustrate this point, let us assume that all DeKalb County banks took a competitively significant action, such as eliminating service charges on checking accounts. If my conclusions are correct, banks in Fulton County would not make an immediate response to this action. Obviously, this decision would be based on a consideration of whether it would be in their interest to respond, or whether a response

would be more costly than silence. Using C&S as an example, I believe the following are the factors that would determine whether the Fulton County banks would in fact respond to such a move by DeKalb County banks.

First, C&S would be expected to make some assessment of the number of checking account customers it would lose if it chose not to respond. If, as I have contended earlier, and as most of the literature on banking markets suggests, convenient physical proximity is of key importance, I would not expect customers to exhibit perfect responsiveness to a change in the price of checking account services.

Next, assuming that service charges exactly cover the cost of providing the service, C&S would be expected to estimate the loss of net income from other services provided to the customers who did leave, and the interest income that could be earned on the deposits of these customers. The sum of those costs measures the cost of ignoring the change.

Finally, C&S would be expected to calculate the cost, in foregone service charge revenue, of responding to the DeKalb banks. This cost will be determined by the extent to which they match the change adopted by DeKalb banks, and the present level of service charge revenue, and the number of customers involved.

If the cost of responding is determined to exceed the cost of ignoring the change, C&S would not respond. Presumably, the other major Fulton County banks would perform the same kind of calculations.

Table 6 shows the distribution and significance of DeKalb deposits in Fulton County offices of the four largest Atlanta banks.

Table 6

Small Demand Deposit Accounts in Fulton County Offices of Four Largest Atlanta Banks

June 30, 1970

Bank	Accounts From ZIP Codes in			Percent of Total Originating in	
	Fulton	DeKalb	Total	Fulton	DeKalb
C&S National	50,660	15,935	87,644	58	18
First National	37,014	14,386	67,567	55	21
Trust Company	22,381	8,580	42,334	53	20
Fulton National	19,687	5,242	33,001	60	16

Source: Data supplied by banks. The account numbers under the county headings were found as follows: First, the sum of all small accounts originating in ZIP codes in Fulton and DeKalb Counties was found for each entire bank. Second, the same information was computed for the offices of these banks that are located in DeKalb County. For each column in the table, the DeKalb branch data were deducted from the bank totals. The percentages do not add to 100 simply because these banks have accounts for which the ZIP code is not known, and other accounts with ZIP codes outside these two counties.

These ratios cast considerable doubt on the likelihood of Fulton County banks following a policy adopted by DeKalb County banks to appeal to DeKalb residents, particularly a policy that involved any significant cost to the banks. Clearly, 20 percent of the customers of the Fulton County offices of the major banks is an important proportion. However, any benefit granted to the 20 percent of the customers who come from DeKalb County must also be granted to the other 80 percent. Moreover, there is reason to doubt that, from any reasonably likely policy change, anything like the full 18 or 20 percent would in fact move.

Some evidence is available that there are at present service charge variations among the banks in Fulton and DeKalb Counties. There also appear to be differences between these banks in interest rates on consumer type loans, such as auto loans. In general, bankers I have interviewed were of the view that individual customers tend to fall into one of two categories. In one category, customers are quite insensitive to differences in interest rates and service charges between banks. On the other hand, such customers feel that hours of operation, convenient access, and the probability of success when seeking credit are crucial, and particularly so when there is a competitor bank within a reasonably short distance. The second category includes customers who typically "shop around" for interest rates and other charges. In general, the larger the former group, the more sluggish the response of banks in one market to changes in policy in an adjacent market.

Even if Fulton County banks were faced with a competitively spectacular action initiated by DeKalb County banks, the former probably would not lose a significant number of customers. Some will stay for reasons of convenience; some will stay because they "like" the bank and its service; some will stay with the larger bank because they like to do business with a large bank even though they don't need to; some will stay because they don't know about the alternative; and some will stay for miscellaneous and sometimes undefinable reasons.

The most compelling reason, then, for concluding that DeKalb County contains at least one banking market is that it contains a very substantial number of bank customers (and probably most of the customers) who could be injured if the degree of competition among banks in DeKalb were lessened. Competition among banks in Fulton County affords some protection to such customers, but only with a time lag, and even then, the protection would be less thorough than that derived from vigorous competition within DeKalb County. In the presence of active competition among DeKalb banks we might imagine a move by those banks that benefits DeKalb customers. We have already hypothesized that Fulton County banks would be unlikely to respond quickly. Consequently, the beneficiaries of that policy change would be DeKalb County banking customers. If the possibility of the development of such a competitive environment is made smaller or is foreclosed, then the losers are, again, DeKalb residents.

The data for Fulton County lend even stronger support to the hypothesis that it also encompasses at least one banking market. We have seen that 82 percent of Fulton County residents who reported place of employment were employed within the County. It is not surprising, therefore, that 96 percent of the small checking accounts of Fulton County residents in Fulton or DeKalb County banking offices are in Fulton County banking offices. 8/ In short, the tests that suggest the presence of at least one banking market in DeKalb County, suggest the same conclusion for Fulton County, even more strongly.

There remains the question of whether, even though Fulton and DeKalb contain separate banking markets, their combined area has any relevance to analysis of the competitive

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8/ See Table 5 for data used in making this calculation.

effects of the proposed mergers. As I noted earlier, there is some interaction between banks in Fulton and DeKalb. There is considerable economic integration between the two counties. These facts are sufficient to warrant further analysis.

Certain facts are of particular importance. First, all the banks involved in the proposed mergers are located in, and do the vast majority of their business in, Fulton and DeKalb. Second, the branching laws allow the larger banks to branch throughout Fulton and DeKalb, while the other banks are limited to their home county.

To assess the interaction between markets, time must be introduced explicitly. The theoretical apparatus I have used in this analysis permits some interaction between two or more geographic markets even though the markets, as defined, are neither too small nor too large to be reasonable approximations. Thus, for example, if banks in say, market A adopt a policy favorable to its customers, a few customers in market B may be induced into A. If these customers are not quantitatively important in B, no response would be expected from the banks in B.

Through time, however, the flow of customers from B to A may increase. Eventually, banks on the periphery of B may be induced to respond. This, in turn, may induce customers to move from other banks to these banks on the periphery. This process can conceivably proceed through time until virtually the entire area of the two small markets has been affected. In fact, if enough time is allowed one can imagine the effect being spread throughout a state. Therefore, for purposes of assessing the impact of a specific change in market structure,

it is important to recognize the influence of time on the size of the customer group that will be affected. If I were asked to point to one area within which all the proposed mergers might have a reasonably prompt competitive effect, that area would be Fulton and DeKalb Counties combined. In my opinion, such an area would be one relevant geographic area within which to analyze the competitive effects of the proposed mergers which are the subject of this litigation.

Up to this point, I have argued that the Atlanta SMSA is too big to be considered a single economic market for the commercial banking services consumed by most customers. I have argued further that DeKalb and Fulton Counties separately are, at least, not too small to be considered reasonable approximations of markets, and that the interaction between them is sufficient to justify concern for the implications of events in one for customers in the other. There remains, finally, the question of whether these areas may be too large for each to represent a single market.

My analysis of available data, combined with my familiarity with the area, interviews with bankers, and a modicum of professional judgment, lead me to conclude that they are technically too big, when my focus is on the geographic boundaries of the customers' side of the market. It is my impression that DeKalb County contains at least two market groups of banking customers outside of what one might consider the metropolitan portion of DeKalb County. Specifically, I believe there may be banking markets in and around Lithonia in Southeast DeKalb and Stone Mountain in East DeKalb.

In Fulton County, it seems likely that there is one (or possibly two) customer markets in the northern end of the county around Alpharetta-Roswell-Sandy Springs, and one or

more markets in the south-southwest section of the county around the East Point-Hapeville-Airport area and in the Union City-Fairburn-Palmetto area.

These small markets, however, are in areas containing a relatively small proportion of the population of the respective counties. In DeKalb, they contain approximately 10 percent of the county's population, and in Fulton about 9 percent. Consequently, while including them in single-county market areas is probably not formally valid, it is not likely to change significantly the results for the entire county. Also, developments in one area are likely to be communicated quickly to the others. Patterns of commuting seem certain to connect most areas of the counties in relay style, and all the banks in each county are able, under existing branching laws to enter any market in the county in which they are located by opening additional branches. Therefore my conclusion is that the counties are reasonable geographic areas within which it is appropriate to analyze the competitive effects of the proposed mergers.

The presence of these small markets does become important, however, when a change in the structure of one of these markets is under consideration. For example, the merger of three of the banking offices now located north of the City of Atlanta in Fulton County would have its effect primarily on customers who live in that area. From north to south in Fulton County above

the city limits, the ZIP codes in this area are 30201, 30075, 30338, and 30328. The southern extremity of the area is found at the perimeter highway (I-285) just south of Sandy Springs and a few miles north of the city limits of Atlanta.

The total number of banking customers in this area can be estimated using the procedure I have used earlier. Census data show that, in the census tracts that approximately coincide with this area, there were 20,570 employed persons. If for each person, there are 0.93 small checking accounts, this area has a total of 19,130 such accounts.

About two-thirds of the residents of this area live south of the Chattahoochee River and one-third live north of the river. The percentages in Table 7 result from assigning 65 percent of these accounts in North Fulton to the Sandy Springs area (south of the river) and 35 percent to the northern-most area. The area between the northern-most section of the county (Roswell and Alpharetta) and Sandy Springs is one that displays considerable physical evidence of growth. Banks in the area apparently recognize the growth potential of the entire area. The Roswell Bank, for example, has recently opened a branch in the North Sandy Springs area.

Table 7 shows the deposits held in the banking offices of the 9 banks that are located in the area and the proportion each bank holds of all small checking accounts in the North Fulton County Area. Area codes 30201 and 30075 are the northern-most ZIP codes in Fulton County and ZIP codes 30338 and 30328 represent the Sandy Springs area.

Table 7

Banking Customers and Banking Offices In North Fulton County Areas

	Accounts Originating* In ZIP Codes			Percentage Held By Each Bank of Estimated Total Small Accounts Originating In		
	30201 and 30075	30338 and 30328	Both Areas Combined	Northern Area	Sandy Springs Area	Both Areas Combined
First National	23	226	249	0.3	1.8	1.3
Trust Company	55	849	904	0.8	6.8	4.7
Fulton National	9	137	146	0.1	1.1	0.8
National Bank of Georgia	23	248	271	0.3	2.0	1.4
C&S East Point	22	396	418	0.3	3.2	2.2
C&S Sandy Springs	148	2,566	2,714	2.2	20.6	14.2
C&S North Fulton	1,134	118	1,252	16.9	0.9	6.5
Roswell Bank	2,694	425	3,119	40.2	3.4	16.3
Fulton Exchange Bank	2,363	40	2,403	35.3	0.3	12.6
				Percentage of Total Estimated Small Accounts From Each Area Held by All Banking Offices Located In Each Area		
				North Area (3 Banks)	Sandy Springs (8 Banks)	Total Area (9 Banks)
Total	6,471	5,005	11,476	92%	40%	60%
Estimated Total No. of Small Accounts Originating in Each Area	6,696	12,434	19,130			

*Includes only banking offices physically located in the 4 ZIP code area of North Fulton County. ZIP code 30338 includes part of DeKalb County that is not clearly convenient to Fulton County. Data in this table, except where otherwise indicated in the text, were compiled from ZIP code data on mailing addresses of accounts, supplied by the banks included in the table.

E-85

These data make it clear that residents of the northernmost section of North Fulton County bank predominantly in the area in which they reside. The three banks in that area hold 92 percent of all small deposits originating in the area. Moreover, these three banks draw the vast majority of their accounts from those two ZIP code areas.

Two of these three banks, however, also draw a substantial number of accounts from other ZIP code areas. The Roswell Bank and C&S North Fulton derive 40 percent and 35 percent of their accounts, respectively, from outside of the two northernmost ZIP code areas. Much of this remainder for the Roswell Bank is drawn from the Sandy Springs area. Moreover, the growth these banks anticipate must come largely from deposits drawn from customers who reside in areas south of their locations. For example. Roswell Bank has a newly opened branch in North Sandy Springs which will compete directly with the C&S East Point branch, and other Sandy Springs banking offices.

In the Sandy Springs area, only 40 percent of the estimated total of all accounts from the area are in banking offices located in the area. About 47 percent of the workers residing in the Sandy Springs area are employed in the City of Atlanta, and it appears that most of those have accounts in Atlanta banks. Thus it appears that the vast majority of such workers have chosen to bank near where they work.

However, it should be noted that until the recent change in Georgia branch banking law, the major Atlanta banks were not permitted to branch in the area. Prior to 1969, C&S Sandy Springs was the only bank located in the area. Thus, for the persons residing in the area and working in Atlanta, the major Atlanta banks represented the only convenient alternative.

In 1969, Trust Company of Georgia Bank of Sandy Springs was formed and since has been merged into Trust Company. Subsequent to the change in the branching law (January 1, 1971), First National, Fulton National and National Bank of Georgia have opened offices in the area. This indicates that they consider it necessary, in order to compete effectively for residents who live in the area, particularly those who do not have convenient banking alternatives near where they work, to be physically present in the market. It also suggests that there are sufficient actual and potential customers in the area to constitute a banking market. And, as the area continues to grow, the market can be expected to grow.

The data and my analysis lead me to conclude that it is likely that the banks in the northern-most section of the North Fulton area are somewhat influenced by the major downtown bank offices but not to a significant degree. The three banks located in the northern area have an estimated 92 percent of all accounts originating in the area. This strongly suggests that the residents of the area do not have convenient alternatives. Thus the sellers in this area are largely insulated from sellers in other areas.

In the Sandy Springs area, the downtown offices of the major banks have already captured a majority of the accounts of residents of Sandy Springs who work in the city. Thus, if Sandy Springs banks adopted a policy injurious to their customers, one would expect few of the customers to be able conveniently to move to other banks. On the other hand, if they adopted a policy of vigorous competition in an effort to capture the business of some of the residents who now bank downtown, it is highly unlikely that the downtown offices of the major

banks would respond. Sandy Springs residents are simply not of great importance to them.

As I have indicated, at the present time, it appears that the North Fulton area contains two reasonable approximations of banking markets. However, growth patterns are rapidly tying them together. Also, it can be expected that the most logical places for the banks to branch would be south for the banks in the northern area and north for the banks in the south. Thus, I believe the distinctions between the two markets will disappear in the near future. Consequently, an area within which the proposed mergers would be likely to have immediate and substantial adverse consequence would be in the area encompassing the entire 4 ZIP code area.

Samuel L. Skogstad
SAMUEL L. SKOGSTAD

Sworn to and subscribed before
me this 18th day of August, 1972.

Joanna J. DuVall
Notary Public

Notary Public, Georgia, State at Large
My Commission Expires May 19, 1975

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF GEORGIA **GX-105**

UNITED STATES OF AMERICA, Plaintiff, v. CITIZENS AND SOUTHERN NATIONAL BANK, et al., Defendants.	Civil Action No. 15823 Filed: November 2, 1971

SECOND AFFIDAVIT OF DR. SAMUEL L. SKOGSTAD

Comes now Samuel L. Skogstad who on his oath deposes and states as follows:

I have been asked by Plaintiff to comment on the Economic Report prepared by Baxter & Co. on behalf of the Defendants. The report is voluminous and addresses many issues relative to the present litigation. I believe that my training and experience qualify me to comment on the economic issues of banking and banking markets. Thus my assessment of the report is confined to the sections that address those issues. 1/ Moreover, in the sections of the report that deal with economic issues, I find many areas of agreement with its author(s). Thus I have further limited my comments to the points at which I believe there is substantive disagreement between my own views and those expressed by the author(s) of the report. It would be incorrect to interpret this emphasis as a judgment that the entire report is without merit.

1/ For example, I know of no way of testing the declaration that C&S was the first to recognize "the fact that local independent banks could not adequately meet the needs of a growing number of metropolitan suburban customers" (p. 41). Moreover, I am not even aware that this is a fact. Since I cannot test such assertions with objective information, I cannot judge whether the praise lavished on C&S is deserved.

In evaluating the Defendants' Economic Report it is important to keep in mind the problem with respect to which it is offered. That problem, as I understand it, is to determine whether the proposed mergers, if consummated, might substantially lessen competition and thereby adversely affect any identifiable group of customers, in violation of Section 7 of the Clayton Act. One dimension of such possible adverse effects is an economic dimension. It is this dimension that is susceptible to evaluation with the analytical tools of the professional economist.

Much of the language of Section 7 of the Clayton Act is not part of the jargon of economics. One problem phrase, from an economist's point of view, is "section of the country." An "acquisition", the effect of which "may be substantially to lessen competition, or to tend to create a monopoly," is a relatively straight-forward concept. However, to give the concept empirical content, the economic dimensions of "section of the country" must be specified.

From an economist's point of view, the "section of the country" in which a lessening of competition would be felt by consumers would be (a) the geographic boundaries of the "market" in which the lessening of competition occurred, and (b) any physically proximate market to which the lessening of competition would be quickly and substantially transmitted.

The primary aim of my own study of Atlanta area banking was to identify the section(s) of the country in which to assess the economic implications of the proposed mergers and to determine which customers, if any, would be likely to feel the effects of the mergers. My assessment of the Baxter & Co. paper is based upon my work in the area of the economics of banking markets and the results of my own study of Atlanta area banking.

Key conclusions reached in Defendants' Economic Report were that failure to consummate the proposed mergers would be detrimental to Atlanta area banking customers, and approval of the mergers would adversely affect no group of customers, and would speed the conversion of Atlanta area banking from an irrational to a rational structure.

Findings reported in Economic Report, and interpreted as supporting the conclusions include:

1. Atlanta banking markets are highly localized, and each bank involved in the proposed mergers is in a separate localized market. Therefore these banks do not now compete with one another and their merger can not reduce the extent to which they compete with one another.

2. A questionnaire survey of C&S customers revealed that many of them consider correspondent associates to be branches of C&S National Bank. The survey also revealed that many C&S customers use more than one office of C&S or more than one C&S bank. Therefore it is argued that the mergers would formalize relationships that these customers believe already exist, and that, in effect, do now exist.

3. Branch banking serves the convenience and needs of customers in a metropolitan area, and increases the number of competitive alternatives available to local customers.

4. The Atlanta SMSA is not highly concentrated relative to other SMSAs in which limited branch banking is permitted. Moreover, the Atlanta SMSA is becoming less concentrated.

5. Branch banking produces a better allocation of credit than does unit banking.

6. Concentration ratios in banking markets do not measure performance in these markets. A good measure of performance is convenience, for which the number of banking offices serves as an indication. There are many banking offices in the Atlanta SMSA, therefore the performance of banks in Atlanta is good relative to other SMSAs.

7. Economies of scale in banking may not be realized if policy promotes the maximization of the number of banks.

8. If the mergers are blocked, the banks involved would lose their relationship with C&S and would be unlikely to be able to become "meaningful competitors with each other or with C&S National and its affiliates in the foreseeable future."

9. The relevant "section of the country" in which to assess the convenience and needs aspects of the proposed mergers is the Atlanta SMSA because "the requirements for banking services arise in the context of an economically integrated metropolitan market." (p. 3)

This list of findings is by no means exhaustive. However, it does include the arguments that are, as I interpret the

report, most crucial to the conclusion that the proposed mergers are desirable from a social point of view. I will address myself to these arguments in the order in which they are presented above.

1. Atlanta Banking Markets

Economic Report is somewhat ambiguous on the concept of market. On page 33, for example, one reads that "the only meaningful market for banking that can be defined from initial investigations is the entire Atlanta metropolitan area" (presumably, the SMSA) "and this is meaningful only for a small number of banking customers." Yet at other points in the report one finds references to the markets served by the correspondent associates, (p. xiv, p. 3, p. 56), and to "overlap" of markets, (p. 57) and to "market spillover" (p. 59). Thus it is not surprising that the author(s) of Economic Report find that "the definition of a geographic market (section of the country) within which to measure concentration, is, as indicated, somewhat arbitrary" (p. 26).

I certainly agree that precise geographic lines can not be drawn around banking markets. In fact, I took that position in my own direct testimony. However, as I also argued in my testimony, I believe reasonable approximations can be found that do not grievously over-state or under-state the dimensions of a market. Even after only an "initial investigation," for example, it seems to me that one can find a less arbitrary approximation of a "meaningful market for banking," than the entire Atlanta SMSA. Several factors suggest that this is a logical implication not only of my own study of the area, but of the Baxter & Co. findings as well.

First, as Economic Report points out, this broad area is meaningful to relatively few customers. Moreover, data in Table 4 of my own testimony reveal that customers in each of Clayton, Cobb, and Gwinnett Counties represent a very minor proportion of the customers served by Fulton and DeKalb County banks. Finally, there appears to be little interaction among Clayton, Cobb, and Gwinnett banks and bank customers.

Another factor that militates against the entire area of the SMSA as a banking market is the fact that by Georgia branch banking law, banks in Fulton and DeKalb Counties cannot branch into Clayton, Cobb, and Gwinnett Counties, nor can banks in those counties branch into Fulton and DeKalb or into each other's counties. The large Atlanta banks can, on the other hand, branch throughout both Fulton and DeKalb Counties. The banking market literature with which I am acquainted, my own professional judgment and experience, and, I believe, sections of the Baxter & Co. report as well, 2/ suggest that laws governing branch banking influence the geographic dimensions of local banking markets. Georgia branch banking law allows a pattern that establishes a connection between Fulton and DeKalb Counties, but not between these counties and the three peripheral counties of the SMSA.

2/ The report explicitly relates industry structure to the legal environment (p. 39). On page 47 the author(s) write:

> "One item of evidence that suggests the greater convenience of banking structures in metropolitan areas is the fact that in unit banking states, deposits tend to be more concentrated in the city center as opposed to suburban areas. This implies that since the specialized services and credit resources of large banks cannot be made conveniently available in suburban areas, more banking must be done in the city center." (My underlining.)

Another way of saying essentially the same thing is that permissive branch banking policy effectively expands the geographic boundaries of banking markets. In Atlanta, branching is permitted throughout Fulton and DeKalb Counties for the largest banks, but not throughout the entire SMSA.

On the basis of the foregoing and other considerations, I concluded that the two-county Fulton and DeKalb area--not the five-county SMSA area--is a meaningful geographic area within which to assess the impact of the proposed mergers. The arguments offered in Economic Report in support of the SMSA area are:

1. "Common sense would appear to indicate a rather broad geographic area" (p. 3), and

2. "the requirements for banking services arise in the context of an economically integrated metropolitan market" (p. 3).

The failure of Economic Report explicitly to reach the conclusion that the Fulton-DeKalb area is relevant, may be explained by the fact that data for these counties separately were not considered. The author(s) dismiss them by simply asserting that they are "basically irrelevant" (p. 33). In my judgment such an assertion has not offset the evidence in favor of the Fulton-DeKalb area as the relevant "rather broad geographic area."

The Baxter & Co. report contends that local banking markets "tend to be relatively concentrated as a matter of statistical definition." (p. 26) I believe the idea underlying this statement is that most banking customers are found to bank at a location relatively close to their residence or to their place of employment, a phenomenon that has been affirmed in numerous studies. I would characterize this, however, as a statistical obervation rather than a definition. The difference, I believe, is that concentration may have a statistical definition, but local banking markets are defined

in terms of the groups of customers and banks who interact and respond to one another. Whether a given market so defined is or is not statistically concentrated is an empirical question and not a question of definition. I am acquainted with bank market studies that attempt to measure concentration in local banking markets, but I do not know of any that define local banking markets in terms of concentration ratios.

Whether local banking markets are concentrated by definition may be only a semantic question, and I do not wish to belabor the point. There is a much more important substantive issue to be considered. The Baxter & Co. report provides data on the ZIP code addresses of certain customers of the C&S banks proposing to merge. On the basis of these data, the report concludes that these banks do in fact serve separate, highly localized markets. The author(s) further conclude that this finding precludes the possibility that any adverse competitive effects would attend the proposed mergers.

I agree fully that banking markets are essentially local in character. However, I believe that errors of analysis in interpreting the data have led the author(s) of the Baxter & Co. report to a geographic delineation of markets that is unreasonably small, and to an inaccurate assessment of the influence of competitive conditions in one small area on banking performance in a similar, neighboring area.

In economic analysis, the term market is used to refer to the group of buyers and the group of sellers of a particular good or service whose interactions determine the terms upon which the good or service is sold and the quantity sold. There is room for some quibbling about this definition, but the essential point is that when a given geographic area is denominated a

market, then all the sellers who are contained in that area and who sell in that area are members of that market. 3/ This point is easily illustrated.

Consider the diagram below:

Let the outer circles represent the areas from which two banks draw most of their customers. The center circle represents, say, a branch of a third bank. The center circle bank competes with both outer circle banks for customers. In the absence of the center circle, one of the outer circle banks might ignore a competitive policy adopted by the other. Given the presence of the center circle bank, however, the policy would be more likely to be adopted quickly by all three banks. Customers in any one of the three areas are affected by what happens in either of the other two. It certainly would make no sense to conclude after examining only the two outer circle banks, that they are in separate markets. Using this criteria, one might easily find that banks on one edge of a suburban neighborhood are not in the same market as banks on the opposite edge.

In Economic Report, an example used to demonstrate the highly localized nature of banking markets does, in fact, ignore the relevance of other banks in determining the market. (p. 81) The author(s) consider those customers of C&S Emory and of C&S DeKalb who have 30030 ZIP code addresses. It was found that most of C&S Emory's 30030 customers came from the side of the area in which it is located, and that the same was true of

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3/ There may be sellers or buyers located outside the area who also sell or buy in that market. (Assuming sellers have delivery service or buyers are geographically mobile.) Also, the buyers and sellers in the area may buy and sell in other geographic markets.

C&S DeKalb's 30030 customers. The author(s) interpret the boundary between the two sides as providing "a very clear distinction between the two market areas." (p. 81)

The author(s) failed to observe, however, that there are at least two other banks with branches between C&S Emory's main office and that of C&S DeKalb. Data supplied by these banks show the following small (under $1,000) checking accounts drawn from ZIP code area 30030:

C&S Emory (all offices)	-	833
C&S DeKalb (both offices)	-	894
Fulton National Bank (Decatur offices)	-	1,569
First National Bank (Decatur branch)	-	1,846

There are other offices of other banks that draw customers from this area as well. The point of these data is simply to illustrate that ZIP code 30030 is served by many banking offices. Consequently, it does not seem reasonable to conclude that the entire ZIP code, much less one or both sides of the boundary drawn through it by Baxter & Co., is a reasonable approximation of a market. Two banks simply do not afford sufficient data to draw such a conclusion.

It should be noted that the author(s) define the market area of each of the Fulton and DeKalb affiliates and correspondent associates, for non-corporate demand deposit business, in terms of ZIP code areas. (Exhibit 35) For example, the market defined for C&S DeKalb includes ZIP code 30030 and six others. The reference on page 81 to the boundary through 30030 as a distinction between two "market areas" is intended to mean that the boundary identifies that part of 30030 from which each bank (C&S DeKalb and C&S Emory) currently draws a substantial number of customers.

From the point of view of a C&S official, in fact, one can readily imagine this boundary being thought of as a boundary of "our market." However, in considering the economic implications of the proposed mergers, it is not reasonable to define markets by confining our attention to the C&S banks and the customers who currently bank at C&S banks. Rather, attention must be directed to all banks who are important suppliers of banking services in this ZIP code and to all customers in this ZIP code area, and any other ZIP code area, who are quantitatively important in determining the conditions on which banking services are supplied. As I have shown, Fulton National Bank and First National Bank of Atlanta both have offices that serve more customers from this ZIP code area than either C&S Emory or C&S DeKalb. Therefore, they are certainly sellers in the market that includes ZIP code 30030. The Baxter & Co. report argues that this ZIP code is also in the "markets" of offices of First National Bank of Glenwood, Trust Company of Georgia, and the North DeKalb branch of First National Bank of Atlanta. Therefore, since the customers of these banks have been ignored, the division of this ZIP code area into two markets is, at best, premature on the basis of the data presented.

In defining the "market" served by C&S Emory, the Economic Report includes ZIP code area 30030 and seven other ZIP code areas. The two from which C&S Emory draws the largest number of customers are 30033, directly north of 30030, and ZIP code 30329, northwest of 30030. Exhibit 40 compares C&S Emory and C&S Tucker in this area (30030) and shows that most of the accounts from the Emory side of the ZIP code are in C&S Emory, and almost half the accounts from the Tucker side are in C&S Emory.

I do not know what this result implies with respect to geographic markets, if anything. However, I found from a quick sampling of data supplied by the Fulton and DeKalb County banks, that C&S Emory has numerous competitors for the small checking account customers in this ZIP code area. A partial listing of banks with accounts from ZIP code 30033 and the number of accounts in each, illustrates the point:

Bank	No. of Small Checking Accounts 4/
C&S Emory (all offices)	2,633
C&S National (all offices)	916
Fulton National Bank (all offices)	942
First National Bank of Atlanta (all offices)	2,000
Trust Company of Georgia (all offices)	1,212
National Bank of Georgia (all offices)	407

Economic Report also identifies, in addition to C&S Tucker, C&S DeKalb and C&S Park National (Exhibit 35), as banks in whose "markets" ZIP code 30033 is included.

4/ Many of these accounts are carried at the downtown offices of the Atlanta banks. The Baxter & Co. report classifies such accounts as "spillover", but does not explicitly define this term. However, it appears to refer to customers who reside in one geographic place and who have banking relationships with banks other than those whose customer's addresses are being examined. The schematic sketch of "spillover" in Defendants' Exhibit 72 suggests that specific geographic markets must be identified before spillover is measured. Therefore, it does not seem to be a concept that would assist in the process of identifying geographic markets.

If "spillover" refers simply to customers who bank in, say, downtown Atlanta and live in, say, Buckhead, it certainly does not follow that these customers or banks in Atlanta are of no competitive significance in Buckhead. Clearly, because the customers may opt to bank downtown or in Buckhead, both groups of banks are competing for Buckhead customers. The "spillover" customers and the banks among which they may choose are of competitive significance.

In ZIP code area 30329, Economic Report, (Exhibit 40), pairs C&S Park National and C&S Chamblee. Thirty-three percent of Park National's non-corporate demand deposit accounts originate in the area (Exhibit 35d), but C&S Chamblee draws only 2.8 percent from this ZIP code (Exhibit 35f). C&S Emory, on the other hand, draws 14 percent from this ZIP code area (Exhibit 35c). Moreover, the absolute number of such accounts in C&S Emory exceeds the number in C&S Park National. Thus there would appear to be competition between C&S Emory and C&S Park National for accounts in this area. Again, various offices of C&S National, Fulton National, First National, Trust Company, and National Bank of Georgia are major competitors for the accounts originating in this ZIP code area. Moreover, as Defendants' Exhibits 38 and 39 demonstrate, DeKalb County Bank and Northeast Commercial Bank are also competitors for accounts from this area.

This analysis could continue for each of the pair-wise comparisons presented in Defendants' Exhibit 40. However, I believe that it is clear that what Economic Report defines as markets are in reality mere descriptions of the areas in which many of the customers of selected banking offices reside. And, the pattern that emerges is neither surprising nor informative. Therefore, I do not believe that the Economic Report has presented any evidence whatsoever that any meaningful market has as one of its geographical boundaries any line drawn through any of the ZIP code areas discussed.

More importantly, the foregoing observations and Defendants' Exhibits 35 through 40, present a description of the process by which banks that draw customers from different areas within an

essentially homogeneous community, are linked through other banks and the customers of those banks, in a single market.

The phenomenon referred to in Economic Report as "market overlap" is the phenomenon that establishes the connection, when it is recognized that a geographic market area may--and usually does--include more than two of the sellers located in the area. The phenomenon referred to in Economic Report as "spillover," may also, under some circumstances, assist in the establishment of the connection. Suppose the "spillover" customers of a given group of banks is relatively large in comparison to all their customers. Then these banks may be expected to respond to competitive measures of banks located in the area in which those customers reside. The banks in that area will respond to the other banks, if the actual or potential "spillover" customers are relatively numerous in comparison with all customers of the former banks. Thus, even if these areas represent in some sense separate markets, each will be influenced by developments in the other. Furthermore, the area encompassing both "markets" will be a relevant area in which to assess the competitive impact of changes in the structure of either.

I believe there is sufficient difference between the treatment in Economic Report of the phenomenon referred to there as "spillover" and my own treatment of that phenomenon, to warrant a special digression. I believe such a digression can serve to bring that difference into clear focus.

Economic Report seems to contend that a bank office in, say, downtown Atlanta, that has a customer with a DeKalb County ZIP code address, has a "spillover" customer. Economic Report asserts, without substantiation, that such a bank is of no competitive significance in the ZIP code area in which that customer resides.

In the language of my analytical framework, the same phenomenon would be described more precisely as a case in which either (1) the DeKalb resident has convenient access to banks in two markets; or (2) the market in which the DeKalb resident buys banking services includes downtown Atlanta. The question of which of these statements is to be used can only be answered by determining whether such a customer (1) resides in an area in which there are sufficient banking customers and banking offices, who deal primarily with each other, to constitute a market, or (2) resides in an area in which there are so few banking offices that most of the residents bank outside the area. In the former case, he chooses between markets. In the latter case, Atlanta is in the market in which he buys banking services.

In either case, the Atlanta bank is of competitive significance since it constitutes one of the options among which he can choose. Only if the customer is one of so few such customers that no banks consciously compete for their business could the Atlanta bank be regarded as of no competitive significance.

In conclusion, in treating the problem of delineating the markets in which the impact of the proposed C&S mergers would be felt, the Baxter & Co. report ignores banks that compete with C&S banks and the customers of those banks, dismisses Fulton and DeKalb Counties by assertion, and overlooks completely the connections between markets that can be established, in part, by the phenomena its author(s) refer to as "spillover" and "overlap". The result is that the report establishes no markets at all and no useful criteria for determining the boundaries of banking markets.

E-103

2. The Questionnaire

The results of the questionnaire survey directed by Baxter & Co. must be interpreted carefully if they are to provide useful evidence relative to the present litigation.

An example of the pitfalls is given by the interpretation of results presented on pages 95 and 96 of Economic Report. The survey results are interpreted to show that 27.2 percent of C&S main office customers consider banking near home an important factor. The report then assumes that the main office is near no one's home, and therefore that many customers do not actually bank at the office in which their accounts are lodged but at one of the other C&S offices. In fact, a study I conducted in 1969 (using 1967 population estimates of the Atlanta Regional Metropolitan Planning Commission) showed that about 40 percent of the population of the City of Atlanta resided within a square area extending 3 miles in each direction from Five Points (the principal intersection of downtown Atlanta). Therefore, the 27.2 percent may very well represent customers who do in fact bank near their homes.

Much of the survey is devoted to assessing the importance of convenience to bank customers. The results are interpreted by the author(s) of Economic Report as demonstrating that convenience is quite important. I do not for a moment doubt that banking customers would prefer to find it convenient to conduct their banking business rather than inconvenient. However, since (1) it is possible right now for most banking customers in most locations in Fulton and DeKalb Counties to choose a bank with branches, and (2) the Baxter and Co. report asserts that C&S will open de novo branches if the mergers are blocked, and (3) many of the results defy interpretation,

it is not clear to me that these results of the survey offer any economic evidence in favor of the mergers.

On page 103, the author(s) report that 25 percent of the respondents found it important to maintain a C&S relationship and 40 percent found it important to bank at the nearest C&S bank. These results are mildly surprising since the questionnaires were sent only to people who are currently customers of C&S. I would have expected higher percentages.

The questionnaires were mailed to 17,334 personal checking account customers. Responses were received from less than one-fourth of these customers. Nevertheless, a sample of 4,000 should be quite adequate if those who respond are representative of the attitudes of all customers. If, however, the respondents represent principally those whose attitudes toward C&S are favorable, then the 25 percent and 40 percent results cited above would be very poor proxies for all C&S customers.

In the section of Economic Report dealing with the survey results and elsewhere, the author(s) suggest that independent banks are not viable in a metropolitan community. Much compelling evidence to the contrary is available. For example, in studying the effects of mergers on competition, Horvitz found:

> "When branching results in a de novo branch competing with a unit bank above minimum size (say, $5 million), the well-managed unit bank can hold its own. This is not to say that the unit bank is not hurt by entry of the branch, but the damage to the unit bank is done by loss of its monopoly position rather than by cost advantages of the branch." 5/

5/ Paul M. Horvitz, "Branch Banking, Mergers, and Competition." In Banking and Monetary Studies, U. S. Comptroller of the Currency, 1963, p. 315.

On the same subject Roland Robinson concluded:

> "... even in the areas of widespread branch banking, some unit banks have not only survived but have prospered. In other words, a well run unit bank can not only survive the competition of branch banks, it can fight them on their own grounds and win." 6/

In my own study in the area of banking markets and competition, I have come across no evidence that suggests that banks of the size of those involved in the proposed mergers can not succeed. Moreover, my interviews with the chief executive officers of several of the many independent banks which do now exist in the area revealed that they expect to survive and to compete effectively.

My assessment of the survey results can be summarized succinctly, as follows:

1. The survey questionnaires were mailed only to current C&S customers, thereby severely limiting the applicability of the results to the question of attitudes of all Atlanta area banking customers.

2. It is not possible to determine the extent of departure of the sample produced by the returned questionnaires from a random sample.

3. The structure of the questions asked was such that the results lend themselves to numerous plausible interpretations.

6/ Roland I. Robinson, "Unit Banking Evaluated," in Banking and Monetary Studies, U. S. Comptroller of the Currency, 1963, p. 293.

4. In general the arguments the author(s) base on the survey results appear to be arguments favoring de novo branch banking rather than branching by mergers.

3. Convenience and Needs

In discussing the point relative to markets, I pointed out that available evidence, as I read it, flatly rejects the SMSA as a relevant area in terms of the competitive impact of the proposed mergers. Moreover, even if it were the relevant area, there is no evidence that suggests the convenience and needs of customers would be better served if the mergers were consummated than they could be by some alternate approach--de novo branching, for example.

Economic Report also suggests that the banks proposing to merge now receive, and can in the future receive if the mergers are permitted, important services from C&S National. If the mergers are blocked, it is argued, the banks will lose these services. Thus, their customers would be inconvenienced.

However, my interviews with independent bankers revealed that most of the services referred to are available through correspondent relationships. Moreover, other large Atlanta banks are readily accessible in the areas of the proposed mergers so that those customers who require or prefer large bank services would have access to them from those sources. Finally, Economic Report asserts that de novo branches of C&S will be opened in these areas if the mergers are blocked.

Consequently, I would not predict any significant adverse effect on convenience and needs of customers as a result of the mergers being blocked.

4. Concentration of Banking in The SMSA

Again, since I do not consider the SMSA a relevant section of the country in which to assess the competitive implications of the proposed mergers, I see no significance in concentration ratios in the area.

It might be noted, however, that the fact that most SMSAs are relatively highly concentrated does not, in my judgment, lead logically to the conclusion that concentration must be good for SMSAs. Moreover, concentration ratios of the two largest banks do not confirm the view that the Atlanta SMSA is relatively unconcentrated.

5. Credit Allocation

I find the results of statistical studies on the implications of branching structure for the quality of credit allocation, mixed and somewhat ambiguous. Nonetheless, on purely economic grounds I believe that within fairly broad limits legislation that permits branch banks has much to commend it. However, I know of no evidence whatsoever that supports a view that branching by merger in an urban area in which branching de novo is permitted, is necessary to improve credit allocation.

6. Concentration Ratios

I agree that concentration ratios do not directly measure performance of a banking system. However, numerous studies have found a statistical relationship between various measures of concentration and measures of performance. The higher the concentration, the less satisfactory the performance. There are also studies that did not find such a relationship, at least between concentration and rates charged to business customers.

In terms of the present case, concentration ratios may be the best of available measures. I certainly cannot accept the contention in Economic Report that number of banking offices is a suitable measure. If that were the case, one could conclude that a single bank with 200 offices would represent "good" performance in Atlanta banking. This conclusion is incompatible with the traditional suspicion that monopoly generates "bad" performance.

The number of banks is also an imperfect measure, as the author(s) of Economic Report correctly point out. However, in a contradictory statement they argue that the Atlanta SMSA has an "adequate" number of competitive banking alternatives, and that these suggest "the presence of vigorous competition." (p. 52) However, to interpret the degree of competition between a given number of banks it is important to have some indication of the relative importance of the various banks. Concentration ratios are used precisely because they give a more refined measure of competition than one that is found by simply summing participants of widely disparate importance.

In the face of actual current concentration, the only plausible means of relieving that concentration are through the growth of existing small competitors or through entry by new competitors. This is far from suggesting "proliferation of banks" or "maximizing the number of banks," as Economic Report suggests. It simply suggests that to merge several of the potential deconcentrating banks into the area's largest bank diminishes the possibility of developing more vigorous banking competition.

7. Economies of Scale

Many studies have been conducted in an effort to measure any scale economies that might be present in banking.

Meltzer, after reviewing many of these studies, concluded:

> "If there are important economies of scale in banking, they are hard to detect and to realize." 7/

Horvitz, in the paper cited in point 6, reports that:

> "Most studies of bank costs have found that there are substantial economies as banks increase in size from very small to moderate size, but that the average cost of a $5 million bank are not significantly higher than those of a $500 million bank."

Horvitz and others are in essential agreement that scale economies may be present for banks up to the $5 million size and that beyond that size no economies are realizable until the $500 million size class. He has also argued that four $15 million unit banks can be operated at a lower unit cost than a $60 million branch bank.

All the banks involved in the proposed mergers have $5 million or more in deposits, and since C&S National is now far beyond $500 million, the addition of the merged banks would be unlikely to generate significant scale economies, if indeed any exist. Therefore, it seems unlikely that scale economies, if any exist, have any economic relevance to the mergers that are the subject of this litigation.

I have treated point 8 to the extent that I feel my competence permits, in commenting on the earlier points. I do not feel that it is within my competence to assess the nature of present or past relationships between the various banks.

Point 9 has also been treated in the course of my earlier comments. I should like to turn now to a summary of my reactions to the Baxter & Co. paper.

7/ Allen H. Meltzer, "Major Issues in the Regulation of Financial Institutions," Journal of Political Economy, Supplement, August 1967.

As my earlier observations imply, I consider the sections dealing with banking markets the most important sections in terms of the economic implications of the proposed mergers. By failing to examine aggregated data for Fulton and DeKalb Counties, and by concentrating on areas from which selected pairs of C&S banks only, draw customers, I believe the study missed the opportunity to discover meaningful dimensions of Atlanta area banking markets.

For the reasons given above, I cannot criticize Economic Report's geographic delineation of markets, because it gives none. The remainder of the relevant sections of Economic Report treat "attitudes" of some C&S customers, the relative merits of branch versus unit banking, banking concentration in the Atlanta SMSA, and economies of scale.

The attitude survey, which was conducted by questionnaire, is of limited value because the questions do not elicit answers that lend themselves to clear interpretation, we do not know who responded, and the questions were asked of current C&S customers only. Branch banking versus unit banking is not the question involved in the litigation. The question deals with specific proposed mergers in specific places. Descriptions of banking in the SMSA are not relevant since the SMSA overstates the "section of the country" in which the economic consequences of the mergers would be felt. Economies of scale are not likely to be gained or lost as a consequence of the proposed mergers.

In conclusion, it is my judgment that Economic Report offers no economic support for the mergers and, moreover,

fails to provide useful criteria for an assessment of the economic implications of those mergers.

SAMUEL L. SKOGSTAD

Sworn to and subscribed before
me this 25th day of August, 1972.

Notary Public

Public, Georgia, State at Large
My Commission Expires May 18, 1976

BEST COPY AVAILABLE

GX-106 A

MEMORANDUM IN SUPPORT OF APPLICATION
OF TRUST COMPANY OF GEORGIA TO MERGE WITH
TRUST COMPANY OF GEORGIA BANK OF SANDY SPRINGS
AND
PEACHTREE BANK AND TRUST COMPANY

This memorandum accompanies an application before the Board of Governors pursuant to the Bank Merger Act (12 U.S.C. § 1828(c) (1964)), by Trust Company of Georgia, Atlanta, Georgia, a State member bank of the Federal Reserve System, for the Board's prior approval of the merger of (a) Trust Company of Georgia Bank of Sandy Springs, and (b) Peachtree Bank and Trust Company, into Trust Company of Georgia under the charter and title of Trust Company of Georgia.

STATEMENT OF FACTS

Trust Company of Georgia, Atlanta, Georgia ("Applicant") with total deposits of $463 million, has applied, pursuant to the Bank Merger Act (12 U.S.C. § 1828(c) (1964)), for the Board's prior approval of the merger into that bank of Trust Company of Georgia Bank of Sandy Springs ("Sandy Springs") which has total deposits of $3.4 million and Peachtree Bank and Trust Company ("Peachtree"), which has total deposits of $14.4 million.[1] The banks would merge under the charter and name of Applicant which is a member of the Federal

[1] Deposit figures are as of December 31, 1969.

COMPETITION

Applicant's central contention is that neither Sandy Springs nor Peachtree actually compete with Applicant now nor is there any likelihood they will be in competition in the future. First, both Sandy Springs and Peachtree are banks which were sponsored by Applicant and have, since beginning business, been closely affiliated with Applicant. Second, the enactment of the branch banking bill has created a vigorous competitive climate in the Atlanta SMSA in general, and in particular in the service areas of Sandy Springs and Peachtree where there presently exists a significant number of banking alternatives, and this number will in both instances be substantially increased when existing branch applications of other banks are approved. Third, the size of both banks really preclude either from being an effective competitor of Applicant, and although there is some overlap of their service areas, neither bank in any meaningful sense competes with Applicant.

A. Sponsored Affiliation Between Applicant and Sandy Springs and Peachtree. Applicant sponsored the organization of both Sandy Springs and Peachtree, because population and business in the northern most part of the SMSA was expanding rapidly, and consequently there was a serious need in that area for convenient banking service. Since Georgia law prohibited branching in this area, Applicant chose to sponsor the organization of affiliated

banks in those areas now served by Sandy Springs and Peachtree.

The Federal Reserve Board has recognized the principle that a sponsor's acquisition of sponsored affiliate banks is not actually anticompetitive with respect to either existing or potential competition. See, e.g., American Bancorp., Inc., 1970, FED. RES. BULL. 391; Citizens Bancorporation, 1970 FED. RES. BULL. 81; Broward Bancshares, Inc., 1970 FED. RES. BULL. 84. The Board reasons that there is no real competition between the sponsored affiliated banks, and that there is, in that situation, no likelihood of disaffiliation. See City National Bank Corporation, 1970 FED. RES. BULL. 367, 369

(i) Peachtree - Peachtree, chartered in March of 1960, was organized primarily by directors, officers and customers of Applicant. Peachtree has been affiliated with Applicant since that time through common ownership and shareholders. Applicant has provided Peachtree with various officers and employees, including three chief executive officers, and Applicant has assisted Peachtree by periodically providing credit surveys, credit memorandum review and advice on large or unusual loans, audit services, accounting systems and automated bookkeeping services. Peachtree has always enjoyed a close relationship with Applicant, which has,

since its inception consulted with Applicant on various matters of operations, policy and investments. Applicant has always been the sole local correspondent of Peachtree. At the same time, Applicant has always recognized the independent nature of Peachtree and has not managed or controlled Peachtree. There is no indication that the close relationship which exists between Applicant and Peachtree is likely to change in the foreseeable future, regardless of the Bank's action with respect to the present operation.

(ii) Sandy Springs - Sandy Springs was chartered in November of 1966 and began business in April of 1967. From its inception to the present time, there has always been a close relationship between Sandy Springs and Applicant, including a close similarity of names. The organization of Sandy Springs was guided by Applicant, and Sandy Springs was actually organized by several of the outside directors of Applicant who were and remain its principal stockholders. Applicant and Sandy Springs have been affiliated through common ownership and shareholders since the inception of Sandy Springs. Applicant has provided Sandy Springs with various officers and employees, including two chief executive officers and has offered credit review and advice, auditing and automated bookkeeping since it opened. As with Peachtree, Sandy Springs has always maintained a close relationship with Applicant and Sandy Springs has sought the advice of Applicant on matters of operation, policy and investments. Applicant

is Sandy Springs' sole correspondent bank. Nevertheless, Applicant has always recognized the independent nature of Sandy Springs and does not manage nor control Sandy Springs.

From the outset the purpose of the organizers of both Sandy Springs and Peachtree was clear: To develop the substantial new banking market opening up in suburban Atlanta north of its city limits, so that when the Georgia branch banking law permitted, Applicant could apply to the supervisory authorities for permission for the two banks to merge into and become offices of Applicant. Thus, while neither bank has been managed or controlled by Applicant, both banks have benefitted from the sponsored affiliation with Applicant.

In view of the close relationship which has existed between Applicant and Sandy Springs and Peachtree, it may be reasonably concluded that neither present nor potential competition would be foreclosed by this merger of the application.

This application is, from the standpoint of competition, substantially identical to two merger applications approved by the Board on October 27, 1970. See Georgia Railroad Bank & Trust Company, Federal Reserve Board Press Release, October 27, 1970, (two opinions both not yet reported in the Federal Reserve Bulletin). Those two applications arose, as does Applicant's, from the change in the Georgia branch banking law.

The Georgia Railroad Bank & Trust Company, which controls bout 49% of the deposits in Richmond County, Georgia, and maintains ix offices in Augusta and in Richmond County, Georgia, sought approval to merge with one bank which had 1.5% of the deposits f Richmond County, Georgia, and another which had 2% of the deposits f Richmond County, Georgia. The Board approved both applications, oting that in both instances the small banks were sponsored affiliates of the large bank. The Board stated in both cases that the ponsored banks had been closely affiliated since tneir inception y common ownership and common shareholders, that the large bank ad provided both sponsored banks with offices, employees and chief xecutive officers, that the sponsored banks had relied to a substanial extent on the large bank in their operations and that the large ank was the principal correspondent bank for the two small banks nd assisted both of them with investments, advice on loan applications, handling of money supply, computer operations and solicited ustomers for the small banks' credit card program.

In the present case, Applicant's share of the relevant arket, 15.34%, is substantially smaller than the Georgia Railroad ank & Trust Company's 49% share of its relevant market. Moreover, pplicant's two sponsored affiliates have a much smaller share of heir relevant market deposits than the two affiliates involved n the Georgia Railroad Bank & Trust Company merger. Sandy Springs as .11% of the market and Peachtree has .48% of the market, whereas

in the Augusta situation, one of the sponsored affiliates had 1.5% of the market and the other had 2% of the market.

Under the ruling in the Georgia Railroad Bank & Trust Company case, neither potential nor actual competition would be foreclosed by Applicant's acquisition of Sandy Springs and Peachtree.

Major Georgia banks developed the concept of sponsored affiliation because market demands could not be adequately satisfied within the framework of existing branch banking laws.

Early in the nineteen sixties Atlanta banks realized that the rapidly expanding population in the Atlanta SMSA combined with population shifts to suburban areas required substantially increased banking services in those suburban areas.

Since 1927 Georgia enacted a series of statutes prohibiting the establishment of additional branch bank offices outside of the incorporated area where the main office or an existing branch of a bank was located. Furthermore, in 1956, bank holding companies were prohibited by Georgia law from acquiring more than 15% of the voting stock of more than one bank and this percentage was reduced in 1960 to 5%. Since 1964, there has been continuous and substantial efforts made by Georgia banks to liberalize the restrictive branch banking laws. Finally in 1970, a county-wide branch banking bill was enacted and this statute, which will become effective on January 1, 1970, will allow branching throughout

Fulton and DeKalb counties, which comprise the heart of the Atlanta SMSA.

B. The Georgia Branch Banking Bill of 1970 Will Greatly Increase Competition in the Service Areas of Both Sandy Springs and Peachtree.

The enactment of the Georgia branch banking bill of 1970 means that in addition to plentiful banking alternatives presently afforded to the service areas of both Sandy Springs and Peachtree, those service areas will be flooded by branches of the major Atlanta banks.

(i) Sandy Springs - There are presently four competing bank offices within a three-mile radius of Sandy Springs. Three of these are branch offices of major Atlanta banks and one is a bank affiliated with a major Atlanta bank. Furthermore, in addition to the existing four bank offices, there are presently pending eight applications for bank offices within a three-mile radius of Sandy Springs. Seven of these eight new bank offices would be branches or predominantly owned affiliates of major downtown Atlanta banks. This means that within a three-mile radius of Sandy Springs, there will be twelve offices competing to some degree with Sandy Springs.

(ii) Peachtree - In the Peachtree service area there are presently five bank offices within a four-mile radius. Four of

Customer Service Comes First

GX-107

Date: June 5, 1972

To: Bank Managers - National Bank
Presidents - Affiliate Banks
Presidents - Correspondent Associate Banks

For some time we have encouraged all lending personnel to handle as many small time loans as possible on CAS, particularly those under $600. In most instances this is more economical for the customer and much less costly for the bank. In such cases where this is entirely unacceptable to the customer, we for several years have had a policy of assessing a $10 base charge plus interest on all time notes under $5,000 in an effort to partially offset our costs. During the first five months of this year we collected $312,530 in base charges systemwide, however, in cases where we waived the $10 base or used some other figure we missed an income opportunity of almost $150,000.

As the Bank Examiners have questioned our $10 base charge on small L&D notes, it becomes more important than ever that we use CAS wherever possible - as you will see.

Going ahead we will in certain instances operate under the Georgia Industrial Loan Act which will necessitate a flat charge instead of a base plus interest. Loans renewed for six months or less cannot be charged a second base charge, and new loans made to a customer less than fifteen days after a loan pays out will be exempt from the charge. Thus the use of realistic final maturity dates at the inception of the loan is most important. A complete schedule of new charges and rate charts, effective immediately, are attached.

We are trying to devise a system of billing small 30-, 60-, 90-day notes through CAS so the customer will get a bill for principal and charges just prior to maturity date, without involving monthly statements or minimum payments - but this will take a few minutes.

If you have any questions, call Howard Starks at 588-2341 or Enoch Prow at 588-3787.

Dan

R. Dan Handley, Jr.
Executive Vice President

Interoffice Memorandum

E- 121

GX-108

Customer Service Comes First

Date: May 11, 1972

To: Branch Managers, National Bank
Presidents, Affiliates & Correspondent Associates

As previously announced, the best rate is 5% as of May 8, 1972. Unless you are notified otherwise, please continue to use the Commercial Loan Rate Chart dated April 17, 1972.

Charlie (JJ)

Charles A. Pfaff
Branch Supervision
2 Main

CAP/ww

E-122

Interoffice Memorandum

GX-109

Customer Service Comm Pkt

Date: May 4, 1972

To: Billy Hallaw
Ed Johnson
Merriell Autry

As you know, we have a legal holiday scheduled for Monday, May 29th. In order to provide our folks with a long weekend, let's plan to keep our banks open Wednesday, May 24th and closed Saturday, May 27th. This will require action by your Board, authorizing the changing of the permissive closing day during this week.

Let's be sure that we notify ahead of time all merchants in our community that are dependent upon Saturday banking, and also publicize at least one week in advance that we will be closed on Saturday, May 27th.

If you have any questions, please give me a call.

John F. Ingram, Jr.
Vice President

JFI/fsh

cc: Mickey Newbury
Mike Moye
Charlie Pfaff

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E- 123

Interoffice Memorandum

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GX-110

Customer Service Comes First

Date: April 18, 1972

To. Branch Managers
Presidents of Affiliates
Presidents of Correspondent Associates

Effective April 17, 1972, our "Best Rate" is 5-1/4%.

A new Rate Chart will be coming out.

Charles A. Pfaff
Vice President

CAP/fsh

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E-124

Interoffice Memorandum

GX-111

Customer Service Comes First

Date: March 2[illegible], 1972

To: Branch Managers, National Bank
Presidents, Affiliates

The C&S "Best Rate" was increased from 4 3/4% to 5% as of March 28, 1972.

This increase is indicative of a trend in interest rates which I think we all need to be aware of. The downward pressure on rates appears to have eased and in our judgment rates have bottomed out and will trend upward throughout the remainder of the year. Our best guess is that the C&S "Best Rate" will reach 5½% within the next six months.

One of the best ways to maximize our yield during a period of rising interest rates is to keep time loans on relatively short maturities. At the same time in negotating a fixed rate for term loans we need to keep these trends in mind and aim for a rate higher than if it were floating with the "Best Rate".

We continue to have plenty of money to lend and our rate structure is competitive. Let's be sure that we continue to take into consideration our over-all relationship with the customer before arriving at a rate which is fair both to the customer and to the bank.

Some caution is advisable in the area of real estate loans and commitments where we are lending on an interim basis without the protection of a firm take-out. If we feel that short term rates are firming up there is no reason to believe that the long term rates will get any softer. We should encourage all customers who are attempting to arrange long term financing to do so as soon as possible.

We will try to keep you informed of changes in rates and trends as they develop.

Charles A. Pfaff
Branch Supervision
2 Main

CAP/ww
c: Presidents of Correspondent Associates (for information)

Interoffice Memorandum

E- 125

GX-112

Customer Service: Cannes Fleet

Date: February 18, 1972

To: Branch Managers, National Bank
Presidents and Managers, Affiliates and
Correspondent Associates

Re: C&S Best Rate

As of Thursday, February 17, 1972, the C&S Best Rate is 4 3/4%. Other rates remain as stated in the commercial loan rate chart dated 1/17/72.

Residential construction loan rates have been lowered by our Real Estate Department from 8½% to 8% plus a 1% fee. Their rate to prime volume builders where we get all permanent loans is 7½% plus 1%, so let's be guided accordingly.

Many of our customers continue to be extremely rate conscious, and we do not want to lose good loans or customers because of rate. Please give me a call if you have any questions.

Many thanks.

Charles A. Pfaff
Branch Supervision
Main - 2

CAP/pm: 2447

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E-126

Interoffice Memorandum

GX-113

Customer Service Comes First

Date: February 1, 1 "

To: Branch Manage . National Bank
Presidents an. Managers, Affiliates and Correspondent Associates

Re: Commercial Loan Rate Chart

Enclosed are copies of the revised commercial loan rate chart which we discussed at our meeting at C-S-ta. Copies should be distributed to all lending officers in your office.

I think Gordon Trulock's memorandum, which is enclosed, is self-explanatory. We have money to lend, but we want good loans with a proper return. At the present time we're shooting for a minimum yield on short term loans to our best commercial customers of 7½%. We feel we can be competitive in the Atlata money market with this target; however, we certainly don't want to miss opportunities to make good loans by not giving a little when our relationship with a customer justifies it.

Please call if you have any questions.

Charles

Charles A. Pfaff
Branch Supervision, Main - 2

CAP/pm: 2447

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E- 127

Interoffice Memorandum

GX-114

Customer Service Comes First

Date: September 28, 1971

To: Branch Managers, National Bank
Presidents, Affiliates and Correspondent Associates

Attached are some very good guidelines for term loans that were worked up by Gordon Oliver. Let's make sure that everyone making this type loan has an opportunity to read Gordon's suggestions. In fact, the attached should be required reading for all lending personnel. Our loan portfolio will certainly improve by adhering to his advice.

John L. Hungerbuhler
Assistant Commercial Credit Officer

pm

cc. Don Ingram
Mike Moye
Gordon Oliver

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E-128

September 17, 1971

GUIDE LINES FOR SMALL BUSINESS TERM LOANS

These standards are written as guidelines only to help in understanding what are considered to be good lending practice at C&S. Exceptions to any of these guidelines are expected from time to time, but it also follows that they would be recognized as exceptions which should be explained in the memo to file and should be off set by other strengths in the credit.

(1) Maturities - monthly repayment should be required with a maximum maturity of sixty months. Normally, maturities on loans to finance equipment and rolling stock should not exceed 36 months. Quarterly payments are acceptable if it <u>really</u> best suits the source of repayment.

(2) Collateral - because of the extended maturity (more than one year) loans should be secured to the extent possible, preferably fully secured. An alternate method of repayment should be explored in case earnings do not materialize as expected to repay the loan. Look for collateral outside the business (stocks, real estate, etc. of principals.)

(3) Down payment requirement - if we are relying on the collateral, the depreciated value of the collateral should always exceed the outstanding principal balance of the loan. This is particularly true in rolling stock and equipment financing so the actual minimum cash payment requirement would range from 10% to 25% of the cash purchase price of the equipment or rolling stock.

(4) Endorsement of principals - In closely held Corporations, the principals should <u>always</u> be required to endorse to ensure their continuing interest in the company.

(5) New business venture - one-half of the capital requirements should be in the form of equity. In other words, we would not want to lend more than the owners have in the business. There will be many exceptions to this guideline, however, other factors such as personal assets of owners or outstanding chance of success coupled with good management expertise and proven individual performance and character should off set the deficiency in equity capital.

(6) Cash flow adequacy - net income plus non-cash charges should equal 1½ times the total term debt payment requirement. In this, term debt to others should be considered as well as our loans. If the loan is in an individual name then the individual's net income less expenses should be 1½ times the debt service requirement.

(7) Thorough Credit Investigation - On all company names, current D&B reports should be required and on each individual (including principals in closely held Corporations), credit bureau reports, or equivalent information in each case, plus other credit background information, such as bank reports on previous experience and/or direct verification with creditors, where necessary.

(8) Financial statements - financial statements should be obtained which are adequate to support the credit requested. As a rule of thumb, statements should be obtained on any borrower whose debt exceeds $2,500 (whether it is secured or unsecured), and as a general rule in term lending, statements should be reviewed as far back as the maturity of the loan is in the future; that is, in considering a three year loan, three previous years statements should be analyzed to denote trends, progress, etc.

(9) Statement follow-up - Statements should be required annually on all loans that exceed $25,000 initially. Actually, quarterly statements are preferred on term loans because of the additional risk generally inherent with this type loan. Quarterly statements are required on any loans rated three or four and on any loans that exceed $15,000 if any part of the loan is unsecured or for working capital purposes.

(10) Key-Man Insurance - In small one or two man operations, life insurance pledged to the Bank should be required on loans if over $25,000.

(11) Documentation - documentation should be completed before proceeds of the loan are disbursed.

(12) Required information for analysis - this information should always be obtained <u>before decision</u> is made and <u>before proceeds are disbursed.</u>

(13) Term Loan Agreement - A Term Loan Agreement should be considered in any case where the loan is (1) for working capital purposes, or (2) where any portion is unsecured or (3) cash flow does not exceed debt retirement by 1½ times, and

the amount financed is over $25,000 (coupled with any one of the first three conditions). Specific requirements and controls in the Term Loan Agreement should be considered such as restrictions on officers' salaries, dividends, control of purchase and sale of fixed assets, etc., rather than just have the customer sign another form.

(14) Information in the file - A memorandum should always be placed in file (the reverse of the Commercial Discount Sheet - Business may be used) stating the purpose of the loan, the source of repayment, the collateral and value, brief financial analysis including an analysis of the cash flow adequacy, collateral benefits and any exceptions to normal policy such as those indicated in these guidelines.

(15) Ask for assistance - lending personnel are expected to know when they need assistance and ask for it, whether in the area of policy guidelines, documentation, analysis, or otherwise.

A. Gordon Oliver
Vice President

Additional sources of information on terms, policies and general discussion of term loans:

(1) Term Loan Checklist - ILD Operating Guide, O.T.C., CSC page 8 of 8.

(2) Loan Administration Manual - Chapter 11 "Term Loan."

GX-115

C&S . Customer Service Comes First

Date: July 28, 1971

To: Branch Managers
Presidents of Affiliates
Presidents of Correspondent Associates

The discount rate increased from 4-3/4% to 5% effective July 19th. The commercial loan rate chart distributed to you last week carried the old rate of 4-3/4%.

Let's also remember that this rate chart reflects minimum rates, and there really should not be a reason for handling any loan below this minimum.

John F. Ingram, Jr.
Vice President

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E-132

Interoffice Memorandum

GX-116

Customer Service Comes First

Date: July 26, 1971

To: Branch Managers, National Bank
Presidents, Affiliates and Correspondent Associates

We're still having too many loans put on at an interest rate below the rates suggested by the new rate chart. Remember, the rate chart indicates the minimum we should be charging.

Let's take a real hard look at what we're charging and get the rates up where they belong.

Many thanks.

John L. Hungerbuhler
Assistant Commercial Credit Officer

pm

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E- 133

Interoffice Memorandum

GX-117

Customer Service Comes First

Date: June 17, 1971

To: Branch Managers, National Bank
Presidents, Affiliates and Correspondent Associates

Re: Committee Items

It is your responsibility to ensure that on a weekly basis all new loans, lines, or commitments of $25,000 or more are reported to the Credit Committee. This should also include any borrower whose total related debt to the bank amounts to or exceeds $25,000. The Credit Department analysts will continue to screen Daily Loan Reports for loans that should be reported; however, this is to serve only as a double-check, and it should not be necessary for them to remind you to report your loans and commitments each week.

When reporting a loan or commitment, the following points must be covered in order for the minutes to be complete:

1) Name of the borrower (brief description of business)
2) Amount of loan or commitment
3) Purpose
4) Collateral and/or endorsers
5) Terms
6) Source of repayment
7) Rate
8) Total related debt

If possible, the credit file copy of your memorandum or new loan report covering your loan or commitment should be brought to the Committee meeting. Your memorandum will enable the management associate serving as secretary for the Committee to be much more accurate in his preparation of the minutes.

I have been quite disappointed recently in the lack of preparation and participation that is evident in our credit meetings. At a time when problem loans and losses are on the increase in practically every branch, we cannot afford a lackadaisical approach to credit review and administration. I challenge you to do a better job of credit administration, not only within your own office, but also in your contribution to your fellow managers and the bank as a whole. I would certainly welcome any ideas or suggestions that you may have, which would make our Committee meetings more effective.

Many thanks.

Charles A. Pfaff
Vice President

pm

E- 134

Interoffice Memorandum

GX-118

Customer Service Comes First

Date: February 11, 1971

To: Branch Managers, National Bank
Presidents, Affiliates and Correspondent Associates

Following our discussion of interest rates at our meeting at C-S-ta, the Commercial Loan Rate Chart has been completed, reflecting a 6% prime rate. The new rate chart is attached.

In general, the suggested rates are those which we feel are proper for the various categories. For financially sound, local companies on short term seasonal loans, we should strive for a yield of 9%, taking into consideration earnings from balances and fees on other bank services used.

In some cases, the value of the relationship and the relatively nominal risk will warrant a rate lower than those listed. On the other hand, where the full service relationship does not exist, and the risk is greater, you will want to charge a rate somewhat higher than those listed.

Charles A. Pfaff
Vice President

pm

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E-135

Interoffice Memorandum

COMMERCIAL LOANS - RATE CHART January 25, 1971

	Less Than $10,000	$10,000 To $50,000	$50,000 and Over
A. Collateral Loans - (a)			
1. Government & Municipals	7 3/4	7 1/2	7 1/4
2. Listed Securities and other marketable bonds	7 3/4	7 1/2	7 1/4
3. Cash Surrender Value	7 3/4	7 1/2	7 1/4
4. Unlisted readily marketable Securities	8	7 3/4	7 1/2
5. Unlisted - not readily marketable securities	9	9	9

	Less than $10,000	$10,000 to 25,000	$25,000 to 50,000	$50,000 and Over
B. Unsecured				
1. Commercial - (c)	8	7 3/4	7 3/4	7 1/2
2. Individual - (e)	8	7 3/4	7 3/4	7 1/2

C. Banks - Member and Non-member
1. U. S. Gov't - Atlanta Federal Rediscount Rate - 5% *
2. Municipal Bonds - 5% - or New York rate if available to bank.*

D. Special Loans
1. Secured by accounts receivable - 13% minimum
2. Security Dealers - New York rate 6% on New York Stock Exchange collateral, including "A" and better corporate bonds and "BAA" and better Municipals. Other collateral - 6½% (a)
3. On own savings account - 6%. On own savings certificates - 2% above certificate rate - 7%.
4. Loans to S&L Associations on Government Bonds - 6%. Unsecured - 6 1/4%.
5. Savings and Loan shares 7 1/2%.
6. Mortgage notes in process of sale - 6 1/4% (b)

FOOTNOTES:
(a) Preponderance of collateral by value governs.
(b) Rate not to be less than mortgage commitment rate.
(c) Prime names - 6%.
(d) Notes less than $2,000 - 8% also require life insurance.

. $10.00 Service Charge plus 8% interest on all notes of $5,000 and under.

NOTE: Above 8% must be a Corporation borrowing $2,500 or more - or any loans $100,000 or more.

*Loans for a maximum period of 2 weeks related to reserve requirements. Loans in excess of 2 weeks 6%.

Employee rate - 4½%

GX-119

Customer Service Comes First

Date: February 2, 1971

To: Executive Vice Presidents - National Bank
Presidents - Affiliate and Correspondent
Associate Banks

As you know, in addition to several prime rate changes recently, a few banks have made minor adjustments in consumer rates and some have even reduced savings and certificate rates.

At this time we plan no overall adjustments in either our over-the-counter or sales finance rate structure, as the cost of money is a relatively small part of the overall cost of doing business in this area. In addition we made few if any adjustments on the up side when money was tight, primarily because we were already at the legal ceilings. In some cases where wholesale rates are tied to the prime or where the competitive situation dictates it we may make some adjustments, but they will be relatively few. If you have a specific situation you would like to discuss, please feel free to call Keith Weikle or me.

We have no objection to your looking at new quality dealers who generate desirable retail and whose wholesale requirements are reasonable, provided it means a profitable overall relationship for the bank and where the dealer is in your normal trade area. We certainly want to expand our over-the-counter business on a quality basis, not only as to dollar volume but so that we can serve more people.

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E-137

Interoffice Memorandum

On the time deposit side, we are willing to take 5½% one-year or 5 3/4 two-year certificate money from customers or prospects in your trade area, but we are not at all interested in attracting or accepting hot money from out of territory. Rates on CD's $100,000 and over change day to day but currently are a little less than 5%.

Holler if you have any questions.

Howard S. Starks

c: Mr. Lane
Joe Hall
Rountree Youmans
Leo Rainey
Eleanor Thornton
Retail Banking Officers

GX-120

Customer Service Comes First

December 15, 1970

Managers, National Bank
Presidents, Affiliates
Presidents, Correspondent Associates

Residential Construction Loan Rates

With the recent reductions in the prime rate, some of you with Residential Builder customers have experienced some pressure from your builders regarding constructions loan rates.

The Real Estate Department has recently lowered their residential construction rate for corporate builders to 9½% + 1% fee. For individual builders the rate remains the same as before but the fee has been increased to approximate the yield to corporate customers. The residential construction rate to individuals is now 9% + 1½% fee.

There could be exceptions to these guidelines and if so, they should be cleared through Branch Supervision.

In the case of Commercial Construction Loans please check with the Real Estate Department for the going rate.

Charles A. Pfaff
Assistant Vice President
Branch Supervision - Atlanta

CAP/pea

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E- 139

GX-121

Customer Service Circular Letter

Date: November 16, 1970

To: Managers, National Bank
Presidents, Affiliates
Presidents, Correspondent Associates

From: Charles A. Pfaff
Assistant Vice President
Branch Supervision - Atlanta

Re: Prime Rate

Effective November 12 the C&S National Bank lowered its prime rate to 7½%. For the time being this will affect only those rates that are tied to the prime. All other rates will remain the same until further notice. If you should have any questions, please give me a call.

Charles

CAP/pes

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E- 140

GX-122

Date: September 22, 1970

From: Charles A. Pfaff
Assistant Vice Presid
Branch Supervision -
Atlanta

To: Managers, National Bank
Presidents, Affiliates
Presidents, Correspondent Associates

Effective today we have reduced our minimum rate to prime commercial customers to 7-1/2%.

Even though we have reduced our prime rate, we have seen no real change in either the supply of or the demand for money. Therefore we expect this reduction in the prime to affect only our prime rate customers and those loans whose rates are tied to the prime.

Other commercial loan rates are just now beginning to reach a level commensurate with today's money market. An overall yield of 10% on short term loans to local businesses should still be our minimum goal.

Certainly we can anticipate a lot of conversation about and requests for reductions in rates we are charging. Our suggestion is that all rates be carefully reviewed and where a reduction is warranted, then do it graciously. On the other hand we still have quite a few rates which still do not measure up and need to be increased.

The reduction in the prime rate should have no effect on our objective of eliminating our evergreen borrowers in L&D and reducing our exposure by tightening our controls over rated loans.

CAP:pes

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E- 141

GX-123

CITIZENS AND SOUTHERN SYSTEM

INTER-OFFICE CORRESPONDENCE

BRANCH SUPERVISION - ATLANTA

November 17, 1969

MEMORANDUM TO: Bank Managers, National Bank
Presidents, Affiliates

RE: Drive-In Banking Hours

Banking hours will probably always need to be flexible with variations depending upon the community and the area in which the bank is located. We have been experimenting for some time at several offices with keeping our drive-in windows open until four o'clock. Those offices that have tried this procedure report good results, particularly on heavy days when it reduces the amount of inside traffic to a considerable degree.

Let's plan to start keeping our drive-in windows open until four o'clock at every location just as quickly as this can be arranged. If this presents any special problems to any of you, please do talk to us and we will work with you to come up with a solution.

Many thanks.

Bill Dan ''

William L. Mathis
Vice President

John F. Ingram, Jr.
Vice President

cc: Presidents, Correspondent Associates - FOR INFORMATION ONLY

E-142

CITIZENS AND SOUTHERN SYSTEM

INTER-OFFICE CORRESPONDENCE

GX-124

BRANCH SUPERVISION - ATLANTA

September 3, 1969

MEMORANDUM TO: Bank Managers, National Bank
Presidents, Affiliates

With the present push to improve our liquidity and increase loan yields, some confusion has arisen regarding allowable interest ceilings under the present Georgia law. Briefly, here is a summary of what we can and cannot charge:

I. Individuals, Partnerships, Proprietorships, Associations

A. Loans Less Than $100,000

The maximum legal rate on time and demand loans less than $100,000 is 8% simple unless loan is secured by real estate when we can charge a maximum of 9%. All time and demand loans under $5,000 are subject to a $10 base charge. The maximum legal rate on installment loans is 6% add-on.

B. Loans $100,000 And Over

No legal maximum. We can charge any rate which borrower agrees to in writing. This applies to time, demand and installment loans.

II. Corporations

A. Loans Under $2,500

The maximum legal rate on time and demand loans is 8% and on term loans, 6% add-on. Time and demand loans are subject to a $10 base charge.

B. Loans Over $2,500

No legal maximum. We can charge any rate agreed upon by authorized officials of the corporation. This applies to time, demand and term loans, however, we should have a signed corporate resolution as proof of this agreement.

Generally, on local companies, we are shooting for a minimum yield on short-term funds employed of 2% over the current prime. Term loans carry more risk because of their nature and length of repayment and should therefore carry a higher yield. A current list of suggested yields for term loans is attached.

Please do let me know if I may be of help or if you have any questions.

Charles A. Pfaff
Assistant Vice President

cc: Presidents,
Correspondent Associates - FOR INFORMATION ONLY

E- 143

TERM LOANS - (Suggested Yields)

Amount & Terms	Secured	Unsecured
Under $25,000		
1 - 5 years	6 add-on	6 add-on
$25 - $50,000		
1 - 5 years	6 add-on	6 add-on
$50 - $100,000		
1 - 5 years	11.25	11.50
5 - 10 years	11.75	12.00
$100 - $250,000		
1 - 5 years	10.75	11.00
5 - 10 years	11.25	11.50
$250,000 and up		
1 - 5 years	10.50	10.75
5 - 10 years	11.00	11.25

The maximum legal rate to individuals, proprietorships and partnerships is 6% add-on plus insurance cost unless the principal amount exceeds $100,000.00. Loans to corporations in excess of $2,500.00 are not governed by this regulation provided the higher rate is agreed upon by authorized officials of the corporation.

Rev. 6/9/69

GX-125

CITIZENS AND SOUTHERN SYSTEM

INTER-OFFICE CORRESPONDENCE

BRANCH SUPERVISION - ATLANTA

June 24, 1969

MEMORANDUM TO: Bank Managers, National Bank
Presidents, Affiliates

Enclosed is a memorandum and revised rate chart from Gordon Trulock. As always, the chart reflects the minimum rate which should be charged. All of us are aware of the 8% ceiling on loans to individuals, partnerships, etc. of less than $100,000 and to corporations of less than $2,500. This means we need to continue our restrictions on new loans and put even more emphasis on converting individual L&D's to monthly or quarterly repayment with an add-on rate. Loans to local corporations should carry a rate of at least 10%.

All loan requests should be reviewed thoroughly and any which are not absolutely essential to normal operations of a customer should be discouraged or declined.

Please give me a call if you have any questions.

Charles A. Pfaff
Assistant Vice President

cc: Presidents, Correspondent Associates - FOR INFORMATION ONLY

E-145

GX-126

CITIZENS AND SOUTHERN SYSTEM

INTER-OFFICE CORRESPONDENCE

BRANCH SUPERVISION - ATLANTA

June 9, 1969

MEMORANDUM TO: Bank Managers, National Bank
Presidents, Affiliate Banks

The recent prime rate increase has necessitated a speed-up of plans we had for L&D loans July 1, 1969, in line with Truth in Lending, Regulation Z.

Obviously, with the prime at 8½%, we should discourage L&D borrowings (at 8%) for the average borrower. We should attempt to place these loans on the quarterly reduction (6 add on) rate chart, or CAS Instant Money.

There may still be instances where a time note will still be to the benefit of the borrower. In these cases, and effective immediately, there will be interest at 8% charged, and a $10.00 service charge. Life insurance, if placed on the note, will be an additional 1.25%. However, 8% is the maximum rate that can be charged an individual as interest and shown on the note.

The same rates will apply to all renewals, also.

Dan

R. Dan Handley, Jr.
Executive Vice President

cc. Presidents, Correspondent Associate Banks, -- FOR INFORMATION ONLY

CITIZENS AND SOUTHERN SYSTEM

INTER-OFFICE CORRESPONDENCE

BRANCH SUPERVISION - ATLANTA

March 18, 1969

MEMORANDUM TO: Bank Managers, National Bank
Presidents, Affiliates

With the increase in the prime rate to 7.5% and the maximum rate to individuals at 8%, we really find ourselves in a squeeze. Loan emphasis should be on liquidity and developing deposit relationships which increase our yield.

Rates on all L & D loans except prime customers should be adjusted to 8%. On loans to corporations where the amount borrowed exceeds $2,500, we can exceed 8% by agreement. This should be done where the risk and cost of servicing justify it, and we do not have profitable balances which increase our yield. Of course, any loans to companies not related to short-term or seasonal needs should be placed on an installment basis at an add-on rate.

Permanent or semi-permanent investment-type loans to individuals should be discouraged. Loans to individuals should be placed on monthly or quarterly installments with an add-on rate; except true short-term loans which will definitely be repaid in one lump sum within twelve months. L & D loans to individuals already on the books which are scheduled to be renewed with reductions should be placed on an installment basis.

The rate on real estate development and construction loans is now 9% plus 1% fee. This rate can be charged only to corporations by agreement since even under the new law, the maximum rate on real estate loans to individuals is 9% including the fee. This, in effect,means that we will be unable to extend construction loans to builders operating in their individual names or through partnerships. We are still not making speculative real estate and development loans.

If you have any questions, just give me a call. Many thanks.

Charles A. Pfaff
Credit Review Officer

cc: Presidents, Correspondent Associates - FOR INFORMATION ONLY
Gordon Trulock, Vice President

GX-128

CITIZENS AND SOUTHERN SYSTEM

INTER-OFFICE CORRESPONDENCE

BRANCH SUPERVISION - ATLANTA

January 29, 1969

MEMORANDUM TO: Bank Managers - National Bank
Presidents - Affiliates
FOR INFORMATION ONLY TO Presidents - Correspondent Associates

Attached is a term loan suggested yield sheet, together with the converter to convert simple interest to add-on, and a memo from Jim Green discussing term rates in general.

All of you have a January 7, 1969 minimum rate chart. We should be firm in our relation with the customer and in all cases get the proper rate. Remember, of course, that the minimum rate chart is exactly what it says, and that is a minumum. Other factors may well cause you to charge a rate above the minimum. Our monthly yield should begin to move up.

Bill Mathis and Bruce Cowie are working on a quarterly add-on rate chart so that we can transfer a lot of our small 90-day simple interest L&D loans to a quarterly add-on basis. Until you receive their chart, you can get the proper rate from Bruce or Harold Malcolm. There is no reason why we should not begin to switch some of the loans that are currently coming due to the Installment Loan Department on this basis.

None of you should place any new construction loans on your books at a rate below 8% with a 1% fee. Many of you have corporate builders that you should be charging 8½% plus the 1%.

In general, the policy on rates is to take a firm stand and increase our yield.

John R. McIntyre
Vice President

William L. Mathis
Vice President

P.S. As of 1-30-69 L&D states that no Atlanta branches have increased their demand loan interest rates during January, 1969. Pershing Point increased theirs on December 31, and Peachtree Baker and Stewart Lakewood have each increased one rate. This should be done immediately.

E- 148

CITIZENS AND SOUTHERN SYSTEM

INTER-OFFICE CORRESPONDENCE

ATLANTA MAIN OFFICE

JANUARY 23, 1969

MEMORANDUM TO: All Lending Officers

SUBJECT: Suggested Yields on Term Loans

Here is a revised chart of suggested rates for term loans. The smallest category of loans is expressed as an add-on rate and the others as simple interest equivalents. A chart showing the conversion of a simple interest rate to its add-on equivalent is also attached.

As you know, the maximum allowable rate to individuals is 8% simple interest or 6% add-on. We will need to charge our rates to individuals on an add-on basis. Loans to corporations in excess of $2,500.00 are not governed by this regulation provided the higher rate is agreed upon by the borrower. However, where we exceed these limits lending to a corporation, we should obtain a copy of the Board Resolution authorizing the payment of the particular rate.

Although these rates are higher than historical experience, they are not high in relation to today's conditions. Over the past three years, rates to the nation's prime borrowers have increased by 55%. Our term loan charges have increased at a considerably lower rate. Although we do have our banking competitors, our competition is often the commercial finance companies and our rates are below this group.

Certainly, we all have good customers who, because of balances on deposit or possibly other reasons, will warrant a lower rate. However, we should always be certain that the lower rate is in fact substantiated by these other factors. On the other hand, a higher rate is also warranted where the borrower does not offer other benefits or where the risk is above the normal standards.

James E. Green, Jr.
Vice President

JEG:EB

Enclosure

E-149

TERM LOANS - (Suggested Yields)

Amount & Terms	Secured	Unsecured
Under $25,000		
1 - 5 years	6 add-on	6 add-on
$25 - $50,000		
1 - 5 years	10.75	11.0
$50 - $100,000		
1 - 5 years	9.75	10.0
5 - 10 years	10.25	10.5
$100 - $250,000		
1 - 5 years	9.25	9.5
5 - 10 years	9.75	10.0
$250,000 and up		
1 - 5 years	8.75	9.0
5 - 10 years	9.25	9.5

The maximum legal rate to individuals, proprietorships and partnerships is 6% add-on plus insurance cost. Loans to corporations in excess of $2,500.00 are not governed by this regulation provided the higher rate is agreed upon by authorized officials of the corporation.

Rev. 1/21/69

ADD-ON EQUIVALENTS *of* ACTUARIAL RATES

The actuarial interest rate shown as the left hand index is applied to the outstanding balances from month to month. The body of the table shows the equivalent "add-on" rate which would be applied to the original amount for the full term.

Annual Actuarial Rate	TERM-months								
	3 mo.	6 mo.	9 mo.	12 mo.	15 mo.	18 mo.	24 mo.	30 mo.	36 mo.
4.50	4.47	2.24	2.23	2.18	2.15	2.13	2.11	2.10	2.10
4.75	2.84	2.49	2.37	2.32	2.29	2.27	2.24	2.23	2.23
5.00	3.00	2.63	2.51	2.45	2.42	2.40	2.38	2.37	2.36
5.25	3.17	2.78	2.65	2.59	2.56	2.53	2.51	2.50	2.50
5.50	3.34	2.93	2.79	2.73	2.69	2.67	2.65	2.64	2.63
5.75	3.51	3.07	2.93	2.87	2.83	2.81	2.78	2.77	2.77
6.00	3.67	3.22	3.07	3.00	2.96	2.94	2.91	2.90	2.90
6.25	3.84	3.37	3.21	3.14	3.10	3.08	3.05	3.04	3.04
6.50	4.01	3.51	3.36	3.28	3.24	3.21	3.18	3.17	3.17
6.75	4.17	3.66	3.50	3.42	3.37	3.35	3.32	3.31	3.31
7.00	4.34	3.81	3.64	3.56	3.51	3.48	3.46	3.45	3.45
7.25	4.51	3.96	3.78	3.69	3.65	3.62	3.59	3.58	3.58
7.50	4.68	4.10	3.93	3.83	3.78	3.76	3.73	3.72	3.72
7.75	4.84	4.25	4.06	3.97	3.92	3.89	3.86	3.85	3.86
8.00	5.01	4.40	4.20	4.11	4.06	4.03	4.00	3.99	3.99
8.25	5.18	4.55	4.34	4.25	4.20	4.16	4.14	4.13	4.13
8.50	5.35	4.69	4.48	4.39	4.33	4.30	4.27	4.27	4.27
8.75	5.51	4.84	4.63	4.52	4.47	4.44	4.41	4.40	4.41
9.00	5.68	4.99	4.77	4.66	4.61	4.58	4.55	4.54	4.55
9.25	5.85	5.14	4.91	4.80	4.75	4.71	4.68	4.68	4.69
9.50	6.01	5.28	5.05	4.94	4.88	4.85	4.82	4.82	4.83
9.75	6.17	5.43	5.19	5.08	5.02	4.99	4.96	4.96	4.97
10.00	6.34	5.58	5.33	5.22	5.16	5.13	5.10	5.10	5.11
10.25	6.50	5.73	5.48	5.36	5.30	5.26	5.24	5.23	5.25
10.50	6.67	5.87	5.62	5.50	5.44	5.40	5.37	5.37	5.39
10.75	6.82	6.02	5.76	5.64	5.58	5.54	5.51	5.51	5.53
11.00	6.98	6.17	5.90	5.78	5.71	5.68	5.65	5.65	5.67
11.25	7.14	6.31	6.04	5.92	5.85	5.81	5.78	5.78	5.81
11.50	7.31	6.47	6.19	6.06	5.99	5.96	5.93	5.93	5.95
11.75	7.49	6.76	6.47	6.34	6.27	6.23	6.21	6.22	6.24
12.00	8.09	7.06	6.76	6.62	6.55	6.51	6.49	6.50	6.52
12.25	8.36	7.35	7.04	6.90	6.83	6.79	6.77	6.78	6.81
12.50	8.70	7.65	7.33	7.18	7.11	7.07	7.05	7.07	7.10
12.75	9.03	7.95	7.61	7.46	7.39	7.35	7.33	7.35	7.39
13.00	9.37	8.25	7.90	7.74	7.67	7.63	7.62	7.64	7.68
13.25	9.71	8.54	8.18	8.03	7.95	7.91	7.90	7.93	7.97
13.50	10.04	8.84	8.47	8.31	8.23	8.20	8.18	8.21	8.27
13.75	10.38	9.14	8.76	8.59	8.51	8.48	8.47	8.50	8.56
14.00	10.71	9.44	9.05	8.88	8.80	8.76	8.76	8.79	8.86
14.25	11.05	9.73	9.33	9.16	9.08	9.04	9.04	9.09	9.15
14.50	11.39	10.03	9.62	9.45	9.36	9.33	9.33	9.38	9.45
14.75	11.72	10.33	9.91	9.73	9.65	9.61	9.62	9.67	9.75
15.00	12.06	10.63	10.20	10.02	9.93	9.90	9.91	9.97	10.05
15.25	12.40	10.93	10.49	10.30	10.22	10.19	10.20	10.26	10.35
15.50	12.73	11.23	10.78	10.59	10.50	10.47	10.48	10.56	10.65
15.75	13.07	11.53	11.07	10.87	10.79	10.76	10.78	10.86	10.96
16.00	13.41	11.83	11.36	11.16	11.08	11.05	11.07	11.16	11.26
16.25	13.74	12.13	11.65	11.45	11.36	11.34	11.37	11.46	11.57
16.50	14.08	12.43	11.94	11.74	11.65	11.63	11.66	11.76	11.88
16.75	14.42	12.73	12.23	12.02	11.94	11.92	11.96	12.06	12.19
17.00	14.76	13.03	12.52	12.31	12.23	12.21	12.25	12.36	12.50
17.25	15.09	13.33	12.82	12.60	12.51	12.49	12.54	12.67	12.82
17.50	15.43	13.63	13.10	12.89	12.81	12.78	12.83	12.97	13.13
17.75	15.77	13.93	13.39	13.17	13.09	13.06	13.12	13.27	13.45
18.00	16.11	14.23	13.68	13.47	13.38	13.36	13.41	13.58	13.76
18.25	16.45	14.53	13.97	13.76	13.68	13.65	13.71	13.88	14.08
18.50	16.78	14.83	14.27	14.06	13.97	13.94	14.00	14.20	14.39

ADD-ON EQUIVALENTS *of* ACTUARIAL RATES

The actuarial interest rate shown as the left hand index is applied to the outstanding balances from month to month. The body of the table shows the equivalent "add-on" rate which would be applied to the original amount for the full term.

Annual Actuarial Rate	TERM - months								
	42 mo.	48 mo.	54 mo.	60 mo.	72 mo.	84 mo.	96 mo.	108 mo.	120 mo.
4 00	2.09	2.09	2.10	2.10	2.11	2.12	2.13	2.14	2.15
4 25	2.23	2.23	2.23	2.24	2.24	2.26	2.27	2.28	2.29
4 50	2.36	2.36	2.37	2.37	2.38	2.39	2.41	2.42	2.44
4.75	2.50	2.50	2.50	2.51	2.52	2.53	2.55	2.57	2.58
5 00	2.63	2.64	2.64	2.65	2.66	2.67	2.69	2.71	2.73
5 25	2.77	2.77	2.78	2.78	2.80	2.82	2.84	2.85	2.88
5 50	2.90	2.91	2.91	2.92	2.94	2.96	2.98	3.00	3.02
5.75	3.04	3.04	3.05	3.06	3.08	3.10	3.12	3.15	3.17
6 00	3.18	3.18	3.19	3.20	3.22	3.24	3.27	3.30	3.32
6 25	3.31	3.32	3.33	3.34	3.36	3.39	3.42	3.44	3.47
6 50	3.45	3.46	3.47	3.48	3.51	3.53	3.56	3.59	3.63
6 75	3.59	3.60	3.61	3.62	3.65	3.68	3.71	3.74	3.78
7 00	3.73	3.74	3.75	3.76	3.79	3.83	3.86	3.90	3.93
7 25	3.86	3.87	3.89	3.90	3.94	3.97	4.01	4.05	4.09
7 50	4.00	4.01	4.03	4.05	4.08	4.12	4.16	4.20	4.24
7 75	4.14	4.15	4.17	4.19	4.23	4.27	4.31	4.36	4.40
8 00	4.28	4.30	4.31	4.33	4.37	4.42	4.46	4.51	4.56
8 25	4.42	4.44	4.46	4.48	4.52	4.57	4.62	4.67	4.72
8 50	4.56	4.58	4.60	4.62	4.67	4.72	4.77	4.82	4.88
8 75	4.70	4.72	4.74	4.76	4.82	4.87	4.93	4.98	5.04
9 00	4.84	4.86	4.89	4.91	4.96	5.02	5.08	5.14	5.20
9 25	4.98	5.00	5.03	5.06	5.11	5.17	5.24	5.30	5.36
9 50	5.12	5.15	5.17	5.20	5.26	5.33	5.39	5.46	5.53
9 75	5.27	5.29	5.32	5.35	5.41	5.48	5.55	5.62	5.69
10 00	5.41	5.44	5.46	5.50	5.56	5.64	5.71	5.78	5.86
10 50	5.69	5.72	5.76	5.79	5.87	5.95	6.03	6.11	6.19
11 00	5.98	6.01	6.05	6.09	6.17	6.26	6.35	6.44	6.53
11 50	6.27	6.31	6.35	6.39	6.48	6.58	6.68	6.77	6.87
12 00	6.56	6.60	6.65	6.69	6.79	6.90	7.00	7.11	7.22
12 50	6.85	6.90	6.95	7.00	7.11	7.22	7.33	7.45	7.57
13 00	7.14	7.19	7.25	7.30	7.42	7.54	7.67	7.79	7.92
13 50	7.44	7.49	7.55	7.61	7.74	7.87	8.01	8.14	8.27
14 00	7.73	7.79	7.86	7.92	8.06	8.20	8.35	8.49	8.63
14 50	8.03	8.09	8.16	8.23	8.38	8.54	8.69	8.84	8.99
15 00	8.33	8.40	8.47	8.55	8.71	8.87	9.03	9.20	9.36
15 50	8.63	8.70	8.78	8.86	9.03	9.21	9.38	9.56	9.73
16 00	8.93	9.01	9.09	9.18	9.36	9.55	9.73	9.92	10.10
16 50	9.23	9.32	9.41	9.50	9.70	9.89	10.09	10.28	10.48
17 00	9.53	9.63	9.72	9.82	10.03	10.24	10.45	10.65	10.86
17 50	9.84	9.94	10.04	10.15	10.36	10.59	10.81	11.02	11.24
18 00	10.15	10.25	10.36	10.47	10.70	10.94	11.17	11.40	11.62
18 50	10.45	10.56	10.68	10.80	11.04	11.29	11.53	11.77	12.01
19 00	10.76	10.88	11.00	11.13	11.39	11.64	11.90	12.15	12.40
19.50	11.07	11.20	11.33	11.46	11.73	12.00	12.27	12.54	12.79
20 00	11.39	11.52	11.65	11.79	12.08	12.36	12.64	12.92	13.19
20.50	11.70	11.84	11.98	12.13	12.43	12.72	13.02	13.31	13.59
21 00	12.01	12.16	12.31	12.46	12.78	13.09	13.40	13.70	13.99
21.50	12.33	12.48	12.64	12.80	13.13	13.46	13.78	14.09	14.40
22 00	12.65	12.81	12.97	13.14	13.48	13.83	14.16	14.49	14.83
23 00	13.29	13.46	13.64	13.83	14.20	14.57	14.93	15.29	15.63
24.00	13.93	14.12	14.32	14.52	14.93	15.33	15.72	16.09	16.46
25.00	14.58	14.79	15.00	15.22	15.66	16.09	16.51	16.91	17.30

GX-134

CITIZENS AND SOUTHERN SYSTEM

INTER-OFFICE CORRESPONDENCE

BRANCH SUPERVISION - ATLANTA

May 27, 1969

MEMORANDUM TO: Bank Managers, National Bank Presidents, Affiliates

RE: Current Loan Policy

Here is a little resume of the points we talked about in our Finance Committee meetings this week regarding tight money. The bank's liquidity level is critically low. Until further notice, we must be even more restrictive in our lending activities. This will include further implementation of the following measures:

1. Loan restrictions to include
   (a) the extension of no new lines or commitments
   (b) no increases in present lines or customer's present borrowing level
   (c) no investment or speculative loans
   (d) no portfolio real estate loans
   (e) no land development loans
   (f) no loan participations to be purchased from affiliates or correspondent associates which would be contrary to this new policy
   (g) construction loan guidelines to residential builders should be cut back to approximately one-half of their previous levels

2. We should concentrate on putting all loans on a reasonable liquidation schedule. Special emphasis should be placed on all number 3 and number 4 rated loans by doing whatever is necessary to see that they are paid or substantially improved.

3. Increased attention should be given to increasing our yield on all loans. There is continued upward pressure on the present prime of 7½%. More emphasis needs to be put on placing individual L&D's on a quarterly installment basis with a 6-seasonal add-on rate. The minimum rate to most local corporations should be 9%. All personal loans of $500 and under should be made as instant money advances on CAS.

E- 153

We all need to recognize the seriousness of our present loan position and work together until it eases. At the same time, we must take care of our customer's legitimate credit needs, charging a fair rate relative to the prime. Remember, we're paying approximately 9% for the funds.

Until further notice, I would like to have a brief memorandum covering any loan requests of $50,000 or more that you either decline or temporarily discourage.

Until our position improves, we will be watching new loans and rates very closely.

Many thanks.

Charles A. Pfaff
Assistant Vice President

cc: Presidents, Correspondent Associates - FOR INFORMATION ONLY

CITIZENS AND SOUTHERN SYSTEM

INTER-OFFICE CORRESPONDENCE

GX-136

BRANCH SUPERVISION - ATLANTA

October 24, 1969

MEMORANDUM TO: Bank Managers, National Bank
Presidents, Affiliates

RE: Demand Loans

Our review of demand loans has pointed out how easy it is to lose control of the loan when it does not have a definite maturity date. Very few valid reasons for putting a loan on a demand basis were evident. In addition, the vast majority of the loans we reviewed lacked definite repayment schedules and rates were below the minimums in todays money market.

Based on the results of our review, I believe we need to accomplish the following in the area of demand loans:

1) Place present demand loans, excluding officer loans, revolving accounts receivable lines, and GHEAC loans; on a time basis with a definite maturity date. This also involves putting all new loans on a time basis with a definite maturity instead of demand.

2) Establish a definite understanding with the borrower regarding some established plan of repayment within a reasonable time.

3) Attempt to increase our rate in order to give us a yield which is commensurate with todays money market. This is especially true on those loans that will be repaid out of income which we can place on a monthly or quarterly installment basis at an add-on rate.

Please let me know if you have any questions. Many thanks.

Charles A. Pfaff
Assistant Vice President

cc: Presidents, Correspondent Associates - FOR INFORMATION ONLY

E- 155

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GX-138

Customer Service Comes First

GX 138
IDENTIFICATION for
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RECEIVED
EXCLUDED
WITHDRAWN

Date: March 30, 1971

To: Branch Managers - Atlanta
C&S Bond Tellers

Re: C&S Savings Bonds and Certificates

Amounts less than $100,000 - Non-negotiable, multiple maturity

Our "V" and "SS" Bonds are designed for the individual saver or investor. These rates are 5%, 5½%, and 5 3/4%, guaranteed for ten years. It is our desire to maintain these rates for individuals only. Please do not issue these bonds or offer these rates to corporations, savings and loans associations, or for public funds.

Amounts of less than $100,000 - Single maturity

Our certificates of deposit rates on "S" certificates to corporations, individuals, etc. regardless of the amount will be the rate presently being paid by Money Management for deposits of $100,000 or more.

These rates currently are as follows - but could change from day to day:

30 to 59 days	3½%
60 to 89 days	3 5/8%
90 to 179 days	3 7/8%
180 to 365 days	4¼%

Interest should be figured manually on all certificates having a rate of less than 5%.

Amounts of $100,000 or more - Negotiable

Please continue to issue all CD's of $100,000 and over on the negotiable form. Please do not use the "V", "S", or "SS" forms for these amounts.

Emergency Withdrawals to be Acceptable:

Emergency provision for redeeming all our certificates and bonds is now available. A general operating guide for handling these is at the printers. This should add a real sales feature to our 5-percenter account as well as the bonds.

Please refer any unusual situations to the Executive Vice Presidents.

E- 156

Interoffice Memorandum

Other banks have withdrawn from the market their 5½% and 5 3/4% certificates. This makes our rates most attractive. We are interested in investment-type funds in our territory and not "hot money" from all over the country - So, let's get some now, investment time deposits.

Eleanor J. Thornton
Assistant Vice President

cc: Executive Vice Presidents
Presidents of Affiliates
Presidents of Correspondent Associates

GX-139

Customer Service Comes First

Date: January 20, 1972

To: Branch Managers, National Bank
Presidents, Affiliates and Correspondent Associates

We've recently checked into our procedures for collecting interest on commercial and residential construction loans. We find a number of discrepancies between accepted practice in different departments and branches. In an effort to be more consistent, we want to adopt the following procedures.

Commercial Construction Loans

It is standard procedure in our Real Estate Department not to accrue interest until maturity on commercial construction loans. Rather, interest is adjusted monthly and collected monthly, similar to our procedure on demand loans. This facilitates the use of floating rates, which they use almost exclusively, and which we want to adopt. Our reasoning here is that most of these loans represent rather substantial principal amounts, with maturities in excess of one year, resulting in extremely large interest accumulations if accrued.

On all new commercial construction loans, whether or not the rate floats, we want to bill our customer as of the first of each month, due and payable by the tenth, for interest calculated on the previous month's outstandings.

The current best rate on commercial construction loans is 3½% above the C&S best short term commercial rate.

Residential Construction Loans

These loans normally represent smaller principal amounts and maturities of less than one year. The major risk here is when the house is not sold by the maturity of the loan and accrued interest begins to diminish our customer's equity in the house. We want to continue our procedure of accruing interest until maturity on residential construction loans. However, should the loan remain on our books past maturity, we want to collect all accrued interest at maturity and past due interest monthly thereafter. This will enable us to maintain our customer's equity in the house and protect our margin.

We would like to institute these procedures immediately on all new loans if they are not already being used. Please call me if you have any questions.

Many thanks.

Charles A. Pfaff
Vice President

pm

Customer Service Comes First

GX-140

Date: July 20, 1971

To: Branch Managers, National Bank
Presidents, Affiliates and Correspondent Associates

The prime rate increased to 6% effective July 8, 1971. We need to adjust our rates for those customers who are tied directly to the prime, if we haven't already done so.

Many thanks.

John L. Hungerbuhler
Assistant Commercial Credit Officer

pm

GX 140 for
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EXCLUDED
WITHDRAWN

E- 160

INTER-OFFICE CORRESPONDENCE

GX-142

BRANCH SUPERVISION - ATLANTA

April 8, 1969

GX	142
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WITHDRAWN	

MEMORANDUM TO: Presidents, Affiliates

The Comptrollers Department is trying to prepare share of the market graphs for your banks. They propose to issue a semi-annual report showing the share of the market in checking accounts, savings accounts, certificates-U. S. Government deposits, state, county and minicipal deposits, deposits of banks and then graph total demand and total time deposits for the last five years.

It is very difficult to determine the market area for your banks. If you have any ideas or thoughts, please jot them down on the back of this memo and return them to us.

We would also like to know who each of you compete with for the market. It might be that we can total bank figures for all of the banks you feel are your competition and consider that the market.

Please give this some immediate thought and let us have your ideas.

John W. McIntyre
Vice President

William L. Mathis
Vice President

cc: Presidents, Correspondent Associates -FOR INFORMATION ONLY

Fin-C&S Tucker,
C&S Stone Mountain
1st Nat'l - Tucker -
C&S Emory - North Dekalb
Two Nines -
Tucker Federal. Savings & Loan -

E-161

Customer Service Comes First

GX-148

Date: August 27, 1970

To: Managers, National Bank
Presidents, Affiliates
Presidents, Correspondent Associates

From: Charles A. Pfaff
Assistant Vice President
Branch Supervision - Atlanta

Re: Report on New Loans

As part of our program to automate commercial loans, we have combined the E Report and loan memorandum that were previously required to be completed on commercial loans. A single and we hope more simplified new report has been devised and titled "Report on New Loans", a copy of which is attached. This new form (#15-3045) can now be ordered directly from the supply room.

Going ahead the Report on New Loans will be used in lieu of both the E Report and the credit memorandum. Its purpose will be to capture information on specific loans for your own credit files and on larger loans to relay that information to Branch Supervision and the Central Credit Files. Certainly your own credit files should contain information on every loan covering the purpose of the loan, source and terms of repayment. This new form may be used for that purpose.

A Report on New Loans is required to be completed on all new loans in your office of $5,000 and over where total related direct or indirect debt amounts to or exceeds $20,000. A copy should be sent to Branch Supervision and to any other interested parties within the bank. It is not necessary to send a copy to Central Credit Files, since the Branch Supervision copy will be sent there for permanent filing.

I'd be interested in your comments once you've had an opportunity to use the new form. If you have any questions, please give me a call on 2447. Many thanks.

Charles

CAP/pes

enc.

GX 148 for
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RECEIVED
EXCLUDED
WITHDRAWN

E- 162

REPORT ON NEW LOANS

Office	Department	Division	Loan Date
Name and Address			Average Collected Balance Past 30 Days $
Principals			Rated Loan? Yes ☐ No ☐
Type Business			If Yes, Rating #
This report covers New Loan ; Amount $	Maturity	Rate %	Unsecured ☐ Partially Secured ☐ Fully Secured ☐ Endorsed or Gtd ☐
Borrower's Total Liability to Bank $			
Net Worth of Borrower $	as of		Fiscal ☐ Interim ☐
Endorser	Net Worth	as of	
Endorser	Net Worth	as of	
If term loan or revolving credit, do we have formal agreement?			Yes ☐ No ☐

Written report to include: Purpose of Loan, Terms and Source of Repayment, Collateral and Value, Special Information or Conditions

Continued on back? Yes ☐ No ☐

Copies to:

Approved by _____

Title _____

15-3065 6-70

E- 163

GX-151

The Citizens and [illegible] National Bank, Atlanta, Georgia

June 8, 1[illegible]

Jim Lewis
South DeKalb

Jim, I realize you folks have been charging a $10.00 late charge on all of your notes regardless of size. This week you received a memorandum from Dan Handley which outlines the new charges for all L & D notes. I think the South DeKalb Bank should follow this letter of instructions to the tee.

Please call this to Ed's attention when he returns.

John F. Ingram, Jr.
Vice President

JFI/fsh

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GX-153

COG: 4.

SECTION: Demand Deposits

OPERATING BULLETIN

TOPIC: Service Charge Exemptions

PAGE: 1 of 1 DATE: May 27, 1971

REPLACES COG 4.20 DATED JUNE 24, 1963; SAME SECTION: TOPIC: SERVICE CHARGES - EXEMPTIONS

This bulletin announces the extension of a service charge exemption to customers over 65 in Atlanta, establishes procedures for handling exemptions and reviews the policy. (Effective June 1, 1971)

Unless there is an agreement covering a local situation we should permit service charge exemptions (excepting those based on a balance requirement) only for the following:

United States Government
State, County and Municipal Accounts
Court Funds
Churches and charitable institutions
C&S Directors and Officers, and their spouses
C&S Employees and their spouses
Employees of the Federal Reserve Bank
Persons over 65 years of age

Some offices have indicated a tendency to exempt priests and ministers, civic clubs, scout troops, and others. It is not the bank's policy to do so. Individual offices of course have the authority to exempt specific accounts.

Please adhere to the "Over 65" policy. No exceptions are intended for persons who retire earlier than 65. If one party on a joint account qualifies for exemption the account should be exempt.

There is no intent to exempt persons "Over 65" from charges for fully personalized checks. Every effort should be made to sell checks to these customers.

The procedure to follow in exempting a new account is to record the exemption on the new account slip under special instructions, for example "SERVICE CHARGE EXEMPT, OVER 65." To exempt an existing account, just send a memo to the Bookkeeping Department giving the account title, number and reason for the exemption.

Each branch will be provided with a quarterly listing of all exempt accounts for review. Prompt and thorough review is essential to control this program and to prevent abuses.

Please give us a call if there are any questions.

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Robert F. Clayton
Staff Marketing Officer
16 North Avenue/2397

CC: Customer Service Representatives - Atlanta

GX-162

FEDERAL RESERVE BANK
OF ATLANTA
ATLANTA, GEORGIA 30303

OFFICE OF THE PRESIDENT

January 5, 1968

Mr. Joseph A. Hall, III, Executive
Vice President
The Citizens & Southern National Bank
Atlanta, Georgia

Dear Mr. Hall:

I am enclosing a series of questions prepared for the purpose of eliciting additional information with respect to the Citizens and Southern Holding Company's ownership (and possible control) of some 21 banks in the State of Georgia in which a 5 per cent interest in the voting stock is held by the Holding Company.

You should submit replies to the enclosed questions in duplicate to me for transmittal to the Board of Governors. Your responses will be reviewed as quickly as possible so that a determination can be made as to the extent of control exercised by the Citizens and Southern Holding Company in regard to its "5 per cent" banks.

Very truly yours,

R. M. Stephenson

R. M. Stephenson
Vice President

Enclosure

E-166

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Additional Information Requested
Regarding Possible Control by C & S
of Certain Banks in the State of Georgia

Q. 1. Section 2(d) of the Bank Holding Company Act, as amended by Act of July 1, 1966, defines "subsidiary" as "(1) . . .; or (2) any company the election of a majority of whose directors is controlled in any manner by such bank holding company." The merger application recently filed with the Comptroller of the Currency involving C & S National Bank, Savannah, and Commercial and Savings Bank of Augusta, both in Georgia, contains numerous direct assertions of control of Commercial and Savings Bank by the C & S system.

(a) Specify precisely the nature of control referred to in the merger application and the exact method by which control is exercised.

(b) With respect to the 21 banks in which C & S acknowledges ownership of 5 per cent (10 per cent in the case of American National Bank of Brunswick, Georgia) of the voting stock (hereinafter referred to as the "21 banks"), to what extent does C & S consider that it "controls" these banks, or any of them, in a manner similar to that admitted with respect to Commercial and Savings Bank of Augusta?

Q. 2. (a) With respect to each of the "21 banks", has C & S controlled in any manner the election of a majority of the banks' directors? (This question is to be answered in the context of the definition of "subsidiary" in Section 2(d) of the Act, as amended.)

(b) Does C & S own or control less than 5 per cent of the voting stock of any other bank? Does C & S exercise control of the nature asserted in the Commercial and Savings Bank merger application in any bank in which C & S either owns or controls no voting stock or less than 5 per cent of the voting stock?

Q. 3. The data earlier provided by C & S identifies Hilson & Co. as "nominee" with respect to stock held in numerous banks.

(a) Who are the beneficial owners of stock of the "21 banks" held by Hilson & Co. as nominee? What relation, if any, have any of the identified beneficial owners with C & S interests, personal or corporate?

(b) Identify the nature (partnership, corporation, etc.) of Hilson & Co.; if partnership, its composition; if corporation, its ownership.

(c) Who selected and designated Hilson & Co. as nominee? Identify any other nominee similarly selected and designated, or any other nominee or nominees acting on behalf of or in the interest of C & S.

(d) Who is authorized to vote, and who in fact has voted, the stock held by Wilson & Co. as nominee? If Wilson & Co. votes some or all of the stock held by it as nominee, to whose direction or mandate is it subject? (If Wilson & Co. is free to exercise its own judgment and discretion in this regard, so state.)

Q. 4. With respect to the stock acquired by C & S in the "21 banks", did any other interest related to C & S, whether individual, partnership, or corporate, acquire stock in the same bank or banks at or near the same time? If so, identify the acquiring party or interest, its relationship to C & S, and the amount of stock so acquired.

Q. 5. Data earlier submitted by C & S contain a narrative explanation of the status held by "agents" acquiring stock in the "21 banks". In our judgment, this narrative is at best ambiguous. In order to further clarify this question please advise:

(a) Who selected the agents who have acquired stock in one or more of the "21 banks"?

(b) Are the terms of the agency set forth in writing? If so, please furnish an example of such instructions.

(c) Specifically, for whom is the agent acting?

(d) What is the usual length of time of such agency?

(e) Who designates any entity to whom sales of the stock held by the agent are to be made? Is the agent free to alter any directive given with respect to prospective purchasers of the stocks held by him?

(f) What is the usual practice with respect to payout of the loans made to agents for the purpose of purchasing stocks? From what source are funds derived for payout of the loans?

(g) What is the usual practice with respect to payment of interest on such loans? By whom is such interest paid?

(h) Who receives dividends on stock held by agents?

(i) What relationship generally do designated agents have to C & S?

Q. 6. (a) Kindly identify the relationship, if any, to C & S Holding Company and/or to C & S National Bank of (1) American Southern Insurance Company, (2) Shares Purchase Company, (3) Mills Bee Lane Foundation, Inc., (4) Mills B. Lane Memorial Fund, (5) M. L. S. Corp., and (6) Bibb Manufacturing Co.

(b) Identify the nature of the activity engaged in by each.

Q. 7. Sec. 13-207, Ga. Code Ann., which treats with bank holding companies, defines "company" as including "the shareholders and those persons who otherwise own the 'company'." Inasmuch as C & S National Bank appears to be a bank holding company under the Georgia statute, to your knowledge do any stockholders of C & S National Bank own or control stock in one or more of the "21 banks"? If so, have State authorities expressed a view as to the appropriateness of such holdings under State law? Has bank counsel expressed any opinion on this question?

Q. 8. (a) Identify the amount, if any, of stock of any of the "21 banks" held in fiduciary capacity by C & S National Bank. In this answer, separately identify any stock held for any stock purchase plan, pension fund, or p fit sharing plan administered by the C & S National Bank for C & S employees. If any stock purchase plan, pension fund, or profit sharing plan is administered for C & S employees by any other trustee, please identify and indicate any stock of the "21 banks" held in such trust account.

(b) With respect to any stock in the "21 banks" which may be shown as held in a fiduciary capacity by C & S National Bank, advise as to whether such stock was received in kind or subsequently purchased.

Q. 9. With respect to officers and employees of any of the "21 banks" to what extent do they participate in fringe benefits plans available to C & S employees? For the purpose of this question "fringe benefits" include pension fund, profit sharing fund plan, and group hospitalizatic..

Q. 10. It is our understanding that blanket bond coverage afforded C & S National Bank is similarly available to one or more of the "21 banks".

(a) If this is correct, please explain the exact circumstances under which such blanket bond coverage is extended to the "21 banks", including information as to payment of premium and any proration thereof.

(b) Is any rate paid by the "21 banks" more favorable because of association with C & S than would be the case if such association did not exist?

Q. 11. (a) To your knowledge to what extent, if any, are officers and/or employees of one or more of the "21 banks" shifted between and among such banks?

(b) Similarly, to what extent do such transfers of officers and/or employees occur between or among the "21 banks" and/or the C & S system?

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(c) At whose direction do such transfers take place?

(d) In an earlier communication, you made known the fact that C & S "lost control" of two banks, one in Cartersville and one in Pelham, Georgia. At the time or immediately prior to such "loss of control" were there in the employ of either bank any former employees or officers of C & S? If so, did some or all such officers or employees return to the C & S system employ or transfer to other banks in which C & S held an interest?

12. (a) To what extent are the "21 banks" advertised to be members of the C & S system? The answer should include advertising by both the holding company and the "21 banks" individually. Please furnish a representative sampling of any advertisements which indicate or imply the existence of a relationship between C & S and any or all of the "21 banks".

(b) What distinctions are made in C & S advertising as between subsidiary banks and the "21 banks"?

(c) If the "21 banks" are in fact advertised as members of the C & S system, how is the cost of such advertising pro-rated among the subsidiary and non-subsidiary banks?

13. The information previously furnished indicates that the Citizens and Southern Holding Company has extended loans to individuals secured by stock of some of the "21 banks". Please list all such loans extended during the past 10 years and furnish a history of pay-outs on such loans not presently outstanding.

14 List services provided by (1) Citizens and Southern Holding Company and (2)Citizens and Southern National Bank, to the following four categories of banks and indicate cost of each of the four groups:

(a) subsidiary banks; (b) the "21 banks"; (c) those banks, if any, identified in response to question 2(b); (d) non-related correspondent banks.

15. With reference to those of the "21 banks" that were acquired by C & S as going concerns, please furnish:

(a) A list of directors of such banks elected at the annual meeting prior to acquisition of such bank by C & S.

(b) A list of directors of each bank as elected at the first annual meeting following acquisition by C & S. (Indicate relationship of new directors to the C & S system.)

(c) Please furnish copies of proxy solicitation materials used by management in each of the "21 banks" in connection with the most recent annual shareholders meeting.

(d) With respect to the most recent annual meeting of each of the "21 banks" please state (1) the number of shares outstanding, (2) the number of shares voted in person, (3) the number of shares voted by proxy.

Q. 16. (a) With respect to the "21 banks", was there at any time after C & S's acquisition of 5 per cent of the voting stock more than one proposed slate of directors? If so, by whom was each slate proposed? In any such cases, which slate was elected?

(b) In any cases where there was but one proposed slate of directors, who selected this slate? How and by whom were the selectors chosen, and what relationship did the selecting parties bear to the C & S interests?

GX-163

January 25, 1968

Mr. R. H. Stephenson
Vice President
Federal Reserve Bank of Atlanta
Atlanta, Georgia 30303

Dear Bob:

As you requested in your letter of January 5, here are two copies of the answers to the questions which you asked us to give you.

If there are any questions about these answers from either yourself or the Board, please let us know.

Sincerely,

Joseph A. Hall, III
Executive Vice President - Comptroller

E-172

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Additional Information Requested
Regarding Possible Control by C & S
of Certain Banks in the State of Georgia

Q. 1. Section 2(d) of the Bank Holding Company Act, as amended by Act of July 1, 1966, defines "subsidiary" as "(1) . . .; or (2) any company the election of a majority of whose directors is controlled in any manner by such bank holding company." The merger application recently filed with the Comptroller of the Currency involving C & S National Bank, Savannah, and Commercial and Savings Bank of Augusta, both in Georgia, contains numerous direct assertions of control of Commercial and Savings Bank by the C & S system.

(a) Specify precisely the nature of control referred to in the merger application and the exact method by which control is exercised.

(b) With respect to the 21 banks in which C & S acknowledges ownership of 5 per cent (10 per cent in the case of American National Bank of Brunswick, Georgia) of the voting stock (hereinafter referred to as the "21 banks"), to what extent does C & S consider that it "controls" these banks, or any of them, in a manner similar to that admitted with respect to Commercial and Savings Bank of Augusta?

A. (a) There is no "direct assertion of control" in the application. Rather, as you have quoted it in your report, the relationship is better described thusly:

". . . the common goals and policies, as well as the shared resources (both human and technical) of both banks must be considered in determining whether there is competition between them . . . Commercial Bank is run, and for its entire history as a commercial bank has been run, by management trained and hired by C&S Bank. This management is responsive to the broad policy decisions made by C&S Bank. All its personnel enjoy C&S Bank employee benefits. Commercial Bank would not exist, and could not continue in its present form were it not for the aid and assistance available from C&S Bank."

Commercial and Savings is thus a separate bank with its own management and board of directors. It is an outlet for the C&S philosophy of service in banking, but is not "controlled" by the C&S National Bank or Holding Company.

(b) Some of the "21 banks in which C&S acknowledges ownership of 5 per cent" enjoy the same type of relationship that Commercial & Savings does, and some of them don't. None have a closer relationship.

2. (a) With respect to each of the "21 banks", has C & S controlled in any manner the election of a majority of the banks' directors? (This question is to be answered in the context of the definition of "subsidiary" in Section 2(d) of the Act, as amended.)

(b) Does C & S own or control less than 5 per cent of the voting stock of any other bank? Does C & S exercise control of the nature asserted in the Commercial and Savings Bank merger application in any bank in which C & S either owns or controls no voting stock or less than 5 per cent of the voting stock?

1. (a) C&S has never controlled nor attempted to control in any manner the election of a majority of the directors of any of the "21 banks" -- nor the election of any single director

(b) C&S owns less than 5% of the Coffee County Bank of Douglas, Ga. "Common goals and policies" do not exist in this case.

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Q. 3. The data earlier provided by C & S identifies Hilson & Co. as "nominee" with respect to stock held in numerous banks.

(a) Who are the beneficial owners of stock of the "21 banks" held by Hilson & Co. as nominee? What relation, if any, have any of the identified beneficial owners with C & S interests, personal or corporate?

(b) Identify the nature (partnership, corporation, etc.) of Hilson & Co.; if partnership, its composition; if corporation, its ownership.

(c) Who selected and designated Hilson & Co. as nominee? Identify any other nominee similarly selected and designated, or any other nominee or nominees acting on behalf of or in the interest of C & S.

(d) Who is authorized to vote, and who in fact has voted, the stock held by Hilson & Co. as nominee? If Hilson & Co. votes some or all of the stock held by it as nominee, to whose direction or mandate is it subject? (If Hilson & Co. is free to exercise its own judgment and discretion in this regard, so state.)

A. (a) See answer to Question 8, which lists fiduciary capacity ownership, all of which is carried in the nominee designation, Hilson & Co.

(b) Hilson & Co. is a nominee for trusts of the C&S National Bank.

(c) The fact that the stock was acquired by various fiduciary accounts resulted in its being in the name of Hilson & Co. The decision to purchase the stock would have been made by the principals in some cases and the bank's Trust Department in others.

(d) C&S National Bank Trust Department or the principal is authorized to vote.

Q. 4. With respect to the stock acquired by C & S in the "21 banks", did any other interest related to C & S, whether individual, partnership, or corporate, acquire stock in the same bank or banks at or near the same time? If so, identify the acquiring party or interest, its relationship to C & S, and the amount of stock so acquired.

A. Most of the stock owned by C&S related interests was bought at or about the same time the C&S Holding Company acquired its 5% interest.

Q. 5. Data earlier submitted by C & S contain a narrative explanation of the status held by "agents" acquiring stock in the "21 banks". In our judgment, this narrative is at best ambiguous. In order to further clarify this question please advise:

(a) Who selected the agents who have acquired stock in one or more of the "21 banks"?

(b) Are the terms of the agency set forth in writing? If so, please furnish an example of such instructions.

(c) Specifically, for whom is the agent acting?

(d) What is the usual length of time of such agency?

(e) Who designates any entity to whom sales of the stock held by the agent are to be made? Is the agent free to alter any directive given with respect to prospective purchasers of the stocks held by him?

(f) What is the usual practice with respect to payout of the loans made to agents for the purpose of purchasing stocks? From what source are funds derived for payout of the loans?

(g) What is the usual practice with respect to payment of interest on such loans? By whom is such interest paid?

(h) Who receives dividends on stock held by agents?

(i) What relationship generally do designated agents have to C & S?

A. (a) The persons who have acted as agents were selected by the C&S Holding Co.

(b) There is nothing in writing about these "agencies." The individuals have been asked to act as such until the stock can be placed in hands of others by the management of the bank involved.

(c) An agent acts for no one. The designation simply distinguishes the person from his individual capacity.

(d) The stock is usually placed within a year; however, where the stock is slow to move it may take longer.

(e) Management of the bank involved attempts to find persons (hopefully in the community served by the bank) who are interested in purchasing the stock. The agent sells the stock to these persons. The agent could disregard the requests of management of the bank involved.

(f) Loans are paid as the stock is sold..

(g) Interest is paid by the agents and paid usually on a semi-annual basis.

(h) Dividends are received by the agents.

(i) Agents have always been C&S National Bank officers.

Q. 6. (a) Kindly identify the relationship, if any, to C & S Holding Company and/or to C & S National Bank of (1) American Southern Insurance Company, (2) Shares Purchase Company, (3) Mills Bee Lane Foundation, Inc., (4) Mills B. Lane Memorial Fund, (5) H. L. S. Corp., and (6) Bibb Manufacturing Co.

(b) Identify the nature of the activity engaged in by each.

A. (1) American Southern Insurance is an insurance company taken over in 1954 by the C&S Holding Co. for a bad debt. All the stock has been sold except 5%.

(2) Shares Purchase Company is a stock purchase plan for C&S officers and employees.

(3) Mills Bee Lane Foundation, Inc. is a group of seven members of the Lane family. It has no relation to or with the C&S National Bank.

(4) Mills B. Lane Memorial Fund

Same as Mills Bee Lane Foundation, Inc.

(5) H. L. S. Corp. is an investment vehicle for our director, Hal Smith and his family

(6) Bibb Manufacturing Co. is a textile manufacturer located in Macon. They are customers of ours and Mr. Mills B. Lane, Jr. is on their Board.

7. Sec. 13-207, Ga. Code Ann., which treats with bank holding companies, defines "company" as including "the shareholders and those persons who otherwise own the 'company'." Inasmuch as C & S National Bank appears to be a bank holding company under the Georgia statute; to your knowledge do any stockholders of C & S National Bank own or control stock in one or more of the "21 banks"? If so, have State authorities expressed a view as to the appropriateness of such holdings under State law? Has bank counsel expressed any opinion on this question?

A. We have attempted to cross check the stockholder lists of the "21 banks" with the C&S National Bank and attached are lists of common stockholders.

State authorities have never had occasion to express a view as to the appropriateness of such holdings since the state law does not prohibit such holdings.

Bank counsel's opinion is attached.

CITY	BANK		NO. SHARES OF BANK	NO. SHARES OF C/S NY/AM
ATLANTA	The Citizens and Southern Park National			
	Ben Kohler, Jr.	1	500	
	As Trustee Charles Center	1		121
	As Trustee Irene Center			121
	Alex W. Smith	9	400	283
AUGUSTA	Citizens State Bank			
	Pierce E. Marks, Sr.	1	500	283
	John L. Murray, Jr.	1	408	132
	Larry Jefferson Murray	9	500	33
AUSTELL	The Austell Bank			
	Joseph E. Patrick	9	250	59
BRUNSWICK	The American National Bank of Brunswick			
	Isaac M. Aiken	1	2006	266
	John Gilbert	1	62	2022
CHAMBLEE	Chamblee National Bank			
	Frank L. Berry	1	800	266
	Williams Rexall Drugs, Inc.	1	1000	242
FAYETTEVILLE	Farmers and Merchants Bank			
	Mrs. Jeane R. Davis	9	1766	342
MOULTRIE	Moultrie Banking Company			
	W. C. & Sarah H. Bradley Foundation	9	2250	3267
	Shelaigh C. McDonald	9	375	13,543
	A. J. Weinberg	9	300	2952
ROSWELL	The Citizens and Southern Bank of North Fulton			
	Martha Kiser Wayt	9	300	336
SANDY SPRINGS	The Citizens and Southern National Bank of Sandy Springs			
	A. J. Weinberg	1	850	2952
	Ivan Allen, Jr.	9	200	1015
	Ivan Allen, Jr. As Trustee U/W C. H. Marshall			1073
	Ivan Allen, Jr. & Margaret P. Allen J.T			4
STONE MOUNTAIN	The Citizens and Southern Bank of Stone Mountain			
	William A. Horne, Jr.	1	150	1170
TIFTON	The Bank of Tifton			
	R. H. Robinson	1	400	574
	The Citizens and Southern National Bank and Virginia G. Moore As Trustees U/W of L. J. Moore	9	2540	1593

1 - Director SF Bank

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WASHINGTON, D. C. 20036
CABLE - "ALSTON"
ATLANTA
WASHINGTON OFFICE

January 9, 1968

Mr. Joseph A. Hall,III
Executive Vice-President and Comptroller
The Citizens and Southern National Bank
Atlanta, Georgia 30303

RE: Georgia Bank Holding Company Act

Dear Mr. Hall:

The Board of Governors of the Federal Reserve System has asked questions of you. You referred Question No. 7 to me with the request that I write you with respect to that question.

This question is based on the premise that under Section 13-207(b) of the Georgia Code, the Citizens and Southern National Bank (the "Bank"), is a bank holding company. First, we would say that the Bank is not a bank holding company under Georgia law.

In order properly to understand the present Section 13-207(b) of the Georgia Code, we must go back to the 1956 Act (Ga. Laws 1956, pps. 309-312).

Section 2(a) of the 1956 Act (page 310) defined a "bank" as including national banks doing business in the State of Georgia.(Ga. Laws 1956, p. 310).

Section 2(b) of the 1956 Act defined "company" as "any bank . . .association or similar organized group of persons

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whether incorporated or not, and includes the shareholders and those persons who otherwise own the 'company' and including any foreign corporation or other organization or association doing business in Georgia . . . ." (Ga. Laws 1956, p. 310)

Thus, a national bank, being a bank, but not a foreign corporation or foreign association doing business in Georgia is specifically included in the definition of "company."

However, since there were self-styled "independent" banks in Georgia which were owned or controlled either by families, individuals or joint venturers, when the state banking holding company provisions were amended in 1960 and in order to eliminate the conclusion, which the Board has reached, that ownership by shareholders of stock in other banks would result in making a bank a bank holding company, the word "bank" was significantly omitted in the definition of "company" in Georgia Code Section 13-207(b) which defined in subsection (b) the term "company" as used in Section 13-207 and as used in Section 13-201.1(c) as "any corporation . . . association or similar organized group of persons, whether incorporated or not, and includes the shareholders and those persons who otherwise own the 'company' and including any foreign corporation or other organization or association doing business in Georgia."

The omission of the word "bank" in the definition of "company" is why this section definitely shows no intent to include as a bank holding company a bank. Also, it shows an intent to regard the word "association" as not including a national banking association for it would not be a "foreign association doing business in Georgia."

The term "bank" as defined in Section 13-201 of the Georgia Code (as amended by the 1960 Georgia Laws) expressly provides that it shall not include national banking associations but does provide that Section 13-207 restricting the acquisition of assets or shares of stock of banks will apply to national banking associations. It goes on to say, in effect, that national banks and state banks shall have the same rights. It is obvious from the omission of the word "bank" from the definition of "company" in Section 13-207(b) that the word "bank" where used in Section 13-207(a) in so far as the ownership or acquisition of shares or assets of a bank was alone meant to include shares or assets of national banks. Thus, a bank holding company could not acquire shares or assets of a national bank where this is proscribed by Section 13-207(a). From this it is apparent that the term "company," either as used in Section 13-207(b) of the Georgia Code or as used in Section 13-201.1(e) cannot mean a bank or a national bank.

There is still another reason why there would be no violation of state law.

In order to be a bank holding company, the company must, under Georgia Code Section 13-201.1(e), "directly or indirectly own, control, or hold with power to vote" more than 5% of the voting shares of each of two or more banks. This definition of "bank holding company" is substantially identical excepting for the percentages, with the definition of bank holding company in Section 2(c) of the 1956 Act. (Ga. Laws 1956, p. 310)

In order to be a bank holding company, the company must "directly or indirectly own, control, or hold with power to vote" a definite percentage of voting stock of each of two or more banks. The Bank clearly does not own directly with power to vote stock owned by its shareholders.

Does it own, control, or hold with power to vote indirectly such stock? Section 2(d) of the 1956 Act (Ga. Laws 1956, p. 310)

says "a company will be construed to own, control or hold, with power to vote, stock indirectly whenever any . . .shareholder of such company . . .or any member of the immediate family of such . . .shareholder . . .shall own, control, or hold with power to vote, such stock." Significantly, this definition was stricken from the 1960 Act and was not repeated in any form whatsoever. This clearly indicates that ownership by a shareholder of a bank holding company will not for the purposes of the provisions of Georgia Code Section 13-207 or Georgia Code Section 13-201.1(c) be regarded as indirect ownership with power to vote the stock.

From this you can see both that national banks cannot be bank holding companies under law nor will ownership of stock by shareholders of national banks be indirect ownership attributable to a national bank.

So far as we know, there has been no formal ruling by the Superintendent of Banks with respect to what is said in this letter or as to the propriety of ownership by shareholders of stock of one bank in two or more banks where that ownership exceeded 5% of the stock in the other banks. Certain it is that the Superintendent of Banks has with knowledge of ownership acquiesced in such ownership since the 1960 Act.

Accordingly, we would say that the seventh question asked by the Board would be immaterial because it is predicated upon the erroneous assumption that a national bank may be a bank holding company and that stock owned by shareholders of a national bank may be considered as indirectly owned or controlled by that bank.

Sincerely,

Henry J. Miller

Henry J. Miller

HJM/jc

Q. 8. (a) Identify the amount, if any, of stock of any of the "21 banks" held in fiduciary capacity by C & S National Bank. In this answer, separately identify any stock held for any stock purchase plan, pension fund, or profit sharing plan administered by the C & S National Bank for C & S employees. If any stock purchase plan, pension fund, or profit sharing plan is administered for C & S employees by any other trustee, please identify and indicate any stock of the "21 banks" held in such trust account.

(b) With respect to any stock in the "21 banks" which may be shown as held in a fiduciary capacity by C & S National Bank, advise as to whether such stock was received in kind or subsequently purchased.

A. (a) See attached listing.

(b) See attached listing.

QUESTION 8

C & S PROFIT SHARING FUND

BANK	DATE PURCHASED	SHARES
Belvedere	12-14-65	1000
Park National	3-28-67	2000
Citizens State Bank, Augusta	2-17-64	875
Commercial and Savings Augusta	9-16-65	5000
Brunswick	2-9-66	1500
Chamblee	4-19-60	1500
Conyers	See attached list	
Jackson	10-20-65	500
	Received 1000 Shares in Stock Dividend 1-24-66 (Total held 1500)	
Moultrie	See attached list	
Sandy Springs	5-5-60	100
Senoia	7-1-64	30
Stone Mountain	10-12-59	200
Tifton	See attached list	
Warner Robins	4-18-67	66
Tucker	4-1-65	800
Austell	See attached list	

Agent U/A - The C & S Fund

Commercial and Savings Bank, Augusta - The Citizens and Southern National Bank as Agent U/A The C & S Fund - 2000 Shares purchased 9-23-65.

Agent U/A Lane Enterprises, Inc.

The Chamblee National Bank - The Citizens and Southern National Bank as Agent U/A Lane Enterprises, Inc. 100 Shares Purchased 3-7-62.

The Bank of Rockdale - The Citizens and Southern National Bank as Agent U/A Lane Enterprises, Inc. 100 Shares Purchased 8-5-63.

BANK OF ROCKDALE

DATE		TOTAL
9-1-61	Purchased 50 Shares	50
1-8-62	Purchased 30 Shares	80
2-20-62	Received 720 Shares 10 for 1 split	800
2-20-62	Received 200 Shares 25% dividend	1000
1-7-66	Sale of 100 Shares	900

BANK OF TIFTON

1-13-61	Purchased 200 Shares	200
11-26-63	Purchased 600 Shares	800
12-3-63	Sold 200 Shares	600
3-4-65	Received 200 Shares in 4 for 3 split	800
7-27-66	Sold 100 Shares	700

AUSTELL BANK

2-19-64	Purchased 500 Shares	500
2-24-64	Sold 50 Shares	450
3-10-64	Sold 20 Shares	430
4-15-64	Sold 50 Shares	380
1-11-65	Sold 30 Shares	350
1-13-65	Sold 15 Shares	335
1-19-65	Sold 55 Shares	280
5-20-65	Sold 10 Shares	270
5-24-65	Sold 5 Shares	265
5-28-65	Sold 5 Shares	260
3-17-66	260 Shares exchanged for 650 Shares - split	650

[illegible] PACKING COMPANY

7-29-54	Purchased 100 Shares	100
	Received 900 Additional Shares - Split	1000
12-30-55	Sold 100 Shares	900
12-31-55	Sold 10 Shares	890
8-8-56	Sold 220 Shares	670
12-12-56	Sold 92 Shares	578
1-8-57	Sold 10 Shares	568
1-15-57	Sold 68 Shares	500
8-29-57	Purchased 500 Shares	1000
3-22-60	Received 500 Shares 50% Stock Dividend	1500
6-17-60	Sold 1050 Shares	450
7-15-60	Purchased 550 Shares	1000
12-6-61	Purchased 250 Shares	1250
11-26-63	Purchased 250 Shares	1500

Q. 9. With respect to officers and employees of any of the "21 banks" to what extent do they participate in fringe benefits plans available to C & S employees? For the purpose of this question "fringe benefits" include pension fund, profit sharing fund plan, and group hospitalization.

A. We offer to make all of the fringe benefits that are available to C&S employees available to employees of the "21 banks." Most of the banks have accepted or are in the process of accepting these offers. This is an important part of the program of making C&S personnel available to these "21 banks" since these benefits are very important to our (C&S) personnel.

Q. 10. It is our understanding that blanket bond coverage afforded C & S National Bank is similarly available to one or more of the "21 banks"

(a) If this is correct, please explain the exact circumstances under which such blanket bond coverage is extended to the "21 banks", including information as to payment of premium and any proration thereof.

(b) Is any rate paid by the "21 banks" more favorable because of association with C & S than would be the case if such association did not exist?

A. (a) Blanket bond coverage is not "extended" to the "21 banks." Rather we were able to get an insurance company to cover most of the "21 banks" as a group, thereby affording them greater coverage at lower premiums. Some could not be included because of their loss experience.

(b) Because of the audit coverage and other "common goals and policies" the insuring company was able to give better rates than otherwise; however, this could be done by any group under similar circumstances. In fact, we are now trying to generate similar coverage for the correspondent banks for whom we perform an audit service and of whose stock we own none.

Q. 11. (a) To your knowledge to what extent, if any, are officers and/or employees of one or more of the "21 banks" shifted between and among such banks?

(b) Similarly, to what extent do such transfers of officers and/or employees occur between or among the "21 banks" and/or the C & S system?

(c) At whose direction do such transfers take place?

(d) In an earlier communication, you made known the fact that C & S "lost control" of two banks, one in Cartersville and one in Pelham, Georgia. At the time or immediately prior to such "loss of control" were there in the employ of either bank any former employees or officers of C & S? If so, did some or all such officers or employees return to the C & S system employ or transfer to other banks in which C & S held an interest?

A. (a) There is practically no shifting of personnel between just the "21 banks."

(b) Almost all new officers in the "21 banks" have been C&S trained and there is some transferring of personnel between these "21 banks" and C&S system banks; however, there is less than between C&S system banks themselves.

(c) Transfers generally are instituted at the request of the bank from whom the person is transferred unless a promotion is involved.

(d) At both Cartersville and Pelham, former C&S officers were in charge of the banks when we decided to part company. At Cartersville, the officer chose to stay, and at Pelham the officer asked to come back to the C&S as well as his assistant. No employees were involved in either instance.

Q. 12. (a) To what extent are the "21 banks" advertised to be members of the C & S system? The answer should include advertising by both the holding company and the "21 banks" individually. Please furnish a representative sampling of any advertisements which indicate or imply the existence of a relationship between C & S and any or all of the "21 banks".

(b) What distinctions are made in C & S advertising as between subsidiary banks and the "21 banks"?

(c) If the "21 banks" are in fact advertised as members of the C & S system, how is the cost of such advertising pro-rated among the subsidiary and non-subsidiary banks?

A. (a), (b) and (c) The "21 banks" are not advertised as being members of the C&S system since they are not. Each of them is a correspondent associate and some few so designate themselves in some of their signs.

Q. 13. The information previously furnished indicates that the Citizens and Southern Holding Company has extended loans to individuals secured by stock of some of the "21 banks". Please list all such loans extended during the past 10 years and furnish a history of pay-outs on such loans not presently outstanding.

...nt	Date of loan	Description of Collateral	Amount of loan	Date Paid
J. Beall	5/25/64	Stock of Citizens State Bank of Augusta	$ 363.65	10/28/6[illegible]
G. Blitch	12/29/64	Stock of Citizens State Bank of Augusta	11,000	7/9/6[illegible]
...nnett A. Brown	1/22/65	Stock of Bank of Tucker	220,000	9/10/6[illegible]
	9/15/65	Stock of Commercial & Savings	79,557.	3/24/6[illegible]
...lph Coker	1/26/66	Stock of C&S Belvedere Bank	29,800	9/12/6[illegible]
	9/12/66	ditto	2,000	12/23/6[illegible]
	1/24/67	ditto	5,250	9/12/6[illegible]
	1/27/67	ditto	2,100	4/17/6[illegible]
Dan Handley	9/12/66	Stock of Commercial & Savings	2,450	4/10/6[illegible]
	1/27/67	ditto	2,600	4/10/6[illegible]
R. McKinnon	5/30/66	Stock of American National Bank of Brunswick	16,055	6/21/6[illegible]
...ugene H. Rackley	5/2/67	Stock of C&S Bank of North Fulton	6,400	6/12/67
	5/19/67	ditto	53,200	10/30/67
...oward S. Starks	2/3/67	Stock of C&S Bank of Tucker	3,000	10/24/6[illegible]
Ray Walker	6/20/66	Stock of American National Bank of Brunswick	52,000	12/22/6[illegible]
	8/1/66	ditto	15,275	12/22/6[illegible]
	11/11/66	ditto	12,348	12/22/6[illegible]

Q. 14 List services provided by (1) Citizens and Southern Holding Company and (2) Citizens and Southern National Bank, to the following four categories of banks and indicate cost of each of the four groups:

(a) subsidiary banks; (b) the "21 banks"; (c) those banks, if any, identified in response to question 2(b); (d) non-related correspondent banks.

	Subsidiary Banks	"21 Banks"	Banks in which Owns Less than and Non-related Correspondents
Accrue Time Loan Interest	Charge pro rata share of direct expense of Accrual Dept.	Charge pro rata share of direct expence of Accrual Dept.	No service ren
Recruiting, hiring & training of employees	$125 per employee hired plus base fee of $135 per month for the 3 Atlanta subsidiaries.	$125 per employee hired. No base fee charged	No service ren
Processing Demand Deposits	.15 master file change .10 company statement .06 personal statement .0097 per item	.15 per master file change .10 per statement .01 per item	Same .15 per master file change .10 per statement .01 per item
Furnish part-time personnel out of work pool	$2.50 per hour per employee	$2.50 per hour per employee	No service rendered
Prepare financial reports	No Charge	No charge	No service rendered
Prepare Federal income tax returns.	No service rendered	$100 per bank $50 per subsidiary	No service rendered
Assistance furnished in preparing annual budgets	No charge	No charge	No service rendered
Collection of charge-off items	10% of amount collected	No service performed	No service rendered
Internal Audits	$30 per man day plus travel expenses	[illegible] per man day [illegible] per man day for supervisor [illegible] travel exp.	Same $45 per man day $60 per man day for supervisor plus travel exp.

15. With reference to those of the "21 banks" that were acquired by C & S as going concerns, please furnish:

(a) A list of directors of such banks elected at the annual meeting prior to acquisition of such bank by C & S.

(b) A list of directors of each bank as elected at the first annual meeting following acquisition by C & S. (Indicate relationship of new directors to the C & S system.)

(c) Please furnish copies of proxy solicatation materials used by management in each of the "21 banks" in connection with the most recent annual shareholders meeting.

(d) With respect to the most recent annual meeting of each of the "21 banks" please state (1) the number of shares outstanding, (2) the number of shares voted in person, (3) the number of shares voted by proxy.

See attached information.

Q. 16. (a) With respect to the "21 banks", was there at any time after C & S's acquisition of 5 per cent of the voting stock more than one proposed slate of directors? If so, by whom was each slate proposed? In any such case, which slate was elected?

(b) In any cases where there was but one proposed slate of directors, who selected this slate? How and by whom were the selectors chosen, and what relationship did the selecting parties bear to the C & S interests?

A. (a) There has never been more than one proposed slate of directors since C&S acquisition of 5% in any of the "21 banks."

(b) Slates of directors have been selected by either management and organizers in the case of de novo banks or by following the same slate as in case of banks in existence when our 5% interest was acquired. We have always suggested a C&S director to work with and help the bank and to act as liaison with C&S.

BEST COPY AVAILABLE

GX-164

The Citizens and Southern National Bank
Atlanta, Georgia 30302

January 24, 1968

MARIETTA AT PEACHTREE
P. O. BOX 4899
TELEPHONE 522-2121
AREA CODE 404

Mr. Robert H. Stephenson
Vice President
Federal Reserve Bank
Atlanta, Georgia 30303

Dear Bob:

Jim Smith called me the other day and said that you needed additional information on some of the questions that I answered for you on January 16.

Here is the additional information.

I have added the answer to question 3 d., I have enclosed the list of common stockholders which is asked for in question 7, and I have given you the dates on which the various stocks were purchased in a fiduciary capacity as listed in answer to question 8.

Sincerely,

Joseph A. Hall, III
Executive Vice President - Comptroller

E- 198

GX 164 for
IDENTIFICATION
OFFERED
RECEIVED
EXCLUDED
WITHDRAWN

Q. 3. The data earlier provided by C & S identifies Hilson & Co. as "nominee" with respect to stock held in numerous banks.

(a) Who are the beneficial owners of stock of the "21 banks" held by Hilson & Co. as nominee? What relation, if any, have any of the identified beneficial owners with C & S interests, personal or corporate?

(b) Identify the nature (partnership, corporation, etc.) of Hilson & Co.; if partnership, its composition; if corporation, its ownership.

(c) Who selected and designated Hilson & Co. as nominee? Identify any other nominee similarly selected and designated, or any other nominee or nominees acting on behalf of or in the interest of C & S.

(d) Who is authorized to vote, and who in fact has voted, the stock held by Hilson & Co. as nominee? If Hilson & Co. votes some or all of the stock held by it as nominee, to whose direction or mandate is it subject? (If Hilson & Co. is free to exercise its own judgment and discretion in this regard, so state.)

A. (a) See answer to Question 8, which lists fiduciary capacity ownership, all of which is carried in the nominee designation, Hilson &

(b) Hilson & Co. is a nominee for trusts of the C&S National Bank.

(c) The fact that the stock was acquired by various fiduciary accounts resulted in its being in the name of Hilson & Co. The decision to purchase the stock would have been made by the principals in some cases and the bank's Trust Department in others.

(d) C&S National Bank Trust Department or the principal is authorized to vote.

	BANK		NO. SHARES ST BANK	NO. SHARES [illegible]
[illegible]A	The Citizens and Southern Bank National			
	Ben Kohler, Jr.	1	500	
	As Trustee Charles Center	1		121
	As Trustee Irene Center			121
	Alex W. Smith	9	400	283
GUSTA	Citizens State Bank			
	Pierce E. Burke, Sr.	1	500	283
	John L. Murray, Jr.	1	408	132
	Larry Jefferson Murray	9	500	33
STELL	The Austell Bank			
	Joseph E. Patrick	9	250	59
URSWICK ◇	The American National Bank of Brunswick			
	Isaac N. Aiken	1	2006	266
	John Gilbert	1	62	2022
AMBLEE	Chamblee National Bank			
	Frank L. Berry	1	800	266
	Williams Rexall Drugs, Inc.	1	1000	242
)ETTEVILLE	Farmers and Merchants Bank			
	Mrs. Jeane R. Davis	9	1766	342
ULTRIE	Moultrie Banking Company			
	W. C. & Sarah H. Bradley Foundation	9	2250	3267
	Shelaigh C. McDonald	9	375	13,543
	A. J. Weinberg	9	300	2952
SWELL	The Citizens and Southern Bank of North Fulton			
	Martha Kiser Wayt	9	300	336
NDY SPRINGS	The Citizens and Southern National Bank of Sandy Springs			
	A. J. Weinberg	1	850	2952
	Ivan Allen, Jr.	9	200	1015
	Ivan Allen, Jr. As Trustee U/W C. H. Marshall			1073
	Ivan Allen, Jr. & Margaret P. Allen J/T			4
ONE MOUNTAIN	The Citizens and Southern Bank of Stone Mountain			
	William A. Horne, Jr.	1	150	1170
FTON	The Bank of Tifton			
	R. H. Robinson	1	400	574
)	The Citizens and Southern National Bank and Virginia C. Moore As Trustees U/W of L. J. Moore	9	2540	1593

= Director SZ Bank
= No Relation to C & S or Affiliates

QUESTION C

C & S PROFIT SHARING FUND

BANK	DATE PURCHASED	SHARES
Belvedere	12-14-65	1000
Park National	3-28-67	2000
Citizens State Bank, Augusta	2-17-64	875
Commercial and Savings Augusta	9-10-65	5000
Brunswick	2-9-66	1500
Chamblee	4-19-60	1500
Conyers	See attached list	
Jackson	10-20-65	500
	Received 1000 Shares in Stock Dividend 1-24-66 (Total held 1500)	
Moultrie	See attached list	
Sandy Springs	5-5-60	100
Senoia	7-1-64	30
Stone Mountain	10-12-59	200
Tifton	See attached list	
Warner Robins	4-18-67	66
Tucker	4-1-65	800
Austell	See attached list	

Agent U/A - The C & S Fund

Commercial and Savings Bank, Augusta - The Citizens and Southern National Bank as Agent U/A The C & S Fund - 2000 Shares purchased 9-23-65.

Agent U/A Lane Enterprises, Inc.

The Chamblee National Bank - The Citizens and Southern National Bank as Agent U/A Lane Enterprises, Inc. 100 Shares Purchased 3-7-62.

The Bank of Rockdale - The Citizens and Southern National Bank as Agent U/A Lane Enterprises, Inc. 100 Shares Purchased 8-5-63.

BANK OF ROCKDALE

DATE		TOTAL
9-1-61	Purchased 50 Shares	50
1-8-62	Purchased 30 Shares	30
2-20-62	Received 720 Shares 10 for 1 split	800
2-20-62	Received 200 Shares 25% dividend	1000
1-7-66	Sale of 100 Shares	900

BANK OF TIFTON

1-13-61	Purchased 200 Shares	200
11-26-63	Purchased 600 Shares	800
12-3-63	Sold 200 Shares	600
3-4-65	Received 200 Shares in 4 for 3 split	800
7-27-66	Sold 100 Shares	700

AUSTELL BANK

2-19-64	Purchased 500 Shares	500
2-24-64	Sold 50 Shares	450
3-10-64	Sold 20 Shares	430
4-15-64	Sold 50 Shares	380
1-11-65	Sold 30 Shares	350
1-13-65	Sold 15 Shares	335
1-19-65	Sold 55 Shares	280
5-20-65	Sold 10 Shares	270
5-24-65	Sold 5 Shares	265
5-28-65	Sold 5 Shares	260
3-17-66	260 Shares exchanged for 650 Shares - split	650

POULTRIE BANKING COMPANY

7-29-54	Purchased 100 Shares	100
	Received 900 Additional Shares - Split	1000
12-30-55	Sold 100 Shares	900
12-31-55	Sold 10 Shares	890
8-8-56	Sold 220 Shares	670
12-12-56	Sold 92 Shares	578
1-8-57	Sold 10 Shares	568
1-15-57	Sold 68 Shares	500
8-29-57	Purchased 500 Shares	1000
3-22-60	Received 500 Shares 50% Stock Dividend	1500
6-17-60	Sold 1050 Shares	450
7-15-60	Purchased 550 Shares	1000
12-6-61	Purchased 250 Shares	1250
11-26-63	Purchased 250 Shares	1500

GX-166

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE
TO THE BOARD

March 22, 1968.

Mr. Mills B. Lane, Jr., President,
The Citizens and Southern National Bank,
Marietta at Broad,
Atlanta, Georgia. 30302

Dear Mr. Lane:

This is in regard to the Board's current inquiry, under the Bank Holding Company Act of 1956, as amended, into the legality of existing relationships between and among C & S Holding Company, its officers, directors, and related interests, and banks in which C & S has acquired a stock interest.

Analysis of C & S' response to inquiries made of it by the Federal Reserve Bank of Atlanta with respect to these relationships does not permit a conclusion with respect to the question of whether such relationships are in all respects permissible under the Bank Holding Company Act, due in part to the fact that, in our judgment, the information provided was not completely responsive to the questions asked. It appears to us questionable whether further written communication would be fruitful in eliciting the information believed necessary to make a determination with respect to the aforestated inquiry. While we could at this time refer the matter to the Department of Justice for any investigatory or related action believed appropriate, because of the possibility that the full scope and intent of our questions have not been fully realized, we are reluctant to transmit the matter to the Department of Justice without further effort on our part to elicit all relevant facts, and to permit reasonable opportunity for voluntary termination of any unlawful relationships that may thereby be disclosed.

To that end, it is proposed that a meeting be held in the Board's offices during the week of April 22, 1968, if convenient to you, for the purpose of discussing all of the circumstances leading to the acquisition by the holding company of its various stock interests;

the circumstances giving rise to near simultaneous acquisition of stock in the same institutions by persons and organizations closely related to the holding company; the true status of and relationship to the holding company of the "agents" found to be involved in several of these stock acquisitions, and the dispositions made of the bank stocks held by such persons; the manner by which at least some of the institutions in which C & S has an interest have arrived at "goals and policies" common to those espoused by the C & S System; and, in general, the relationship of a "correspondent associate" to the C & S System, including the method by which such relationship is created and perpetuated. In order that the advantages inherent in the type of "question and answer" conference proposed may be attained, we propose to have the conference stenographically reported, and a verbatim transcript thereof prepared, a copy of which can, of course, be furnished to you.

Accordingly, if agreeable to you, we ask that you, Mr. Joseph A. Hall and Mr. Howard S. Starks of the C & S organization, and Mr. [illegible] J. Fortuna, President of the Citizens and Southern National Bank of San[illegible] Springs, who, we understand, has also served in the past in the capacity of "agent", be present at the Board's offices on Monday, April 22, 1963, at 10:00 A.M. You are free, of course, to have any other individuals of your choosing present at the conference. We would appreciate being advised in advance of the conference of the names and positions of persons who will be present. In order to expedite the ultimate determination of this matter, it is suggested that you bring with you such records and other documents as you anticipate may be necessary to permit and facilitate a full and accurate response to any questions on the above-outlined subjects.

Any questions, comments, or suggestions which you may have regarding this matter may be addressed to Mr. Stephenson or Mr. Smith at the Federal Reserve Bank of Atlanta.

Very truly yours,

Robert P. Forrestal

Robert P. Forrestal,
Assistant Secretary.

GX-169

ALSTON, MILLER & GAINES

June 17, 1968

ATLANTA

Mr. James R. Smith, Counsel
Federal Reserve Bank of Atlanta
Atlanta, Georgia

Dear Mr. Smith:

This letter reduces to writing our understanding of the results of our discussions this morning whereat were present Mr. O'Connell, Mr. Lane, Mr. Hall, you and I.

(1) With respect to The Citizens and Southern Community Development Corporation, this is a matter into which the Board desires to take a further look.

(2) With respect to the salvage and liquidation proposal, the Citizens and Southern Holding Company (the "Holding Company") will organize a subsidiary which will operate by a contribution annually of 1% of outstandings of all term loans to small businesses held by The Citizens and Southern National Bank of Georgia ("National") and by all subsidiary banks of the Holding Company. This Salvage and Liquidation Corporation will then purchase from National and the subsidiary banks of the Holding Company such term loan paper, when that paper shall be classified as loss by regulatory authorities and will take over the salvage and collection. In addition, standards of doubtful loans creditwise will be established so that loans, where loss is estimated to occur, although not classified as "loss" loans, may also be transferred to the corporation for liquidation and salvage.

(3) Acquisition and ownership by profit sharing trustees of stock in banks in which the Citizens and Southern Holding Company has a 5% interest. As outlined in our letter to you dated May 7, 1968, the only stock of a five percenter which would be acquired hereafter by the trustees would be in Fund C, would be stock of the employer five percenter, and would be purchased only at the direction or request of a participating employee of the respective employer (see § 10.4(a) with respect to accumulated contributions of the employer and § 10.4(b) with respect to employer contributions during the plan year). Requests to purchase under § 10.4(a) must be made by September 1 of the year prior to purchase and requests to purchase under § 10.4(b) must be made by December 1 of the year prior to purchase. No purchase would be made until after application to the Board during September or December of the year was made for authority to purchase employer five percenter stock. Stock would not be purchased unless both stock were available for purchase and also there was prior approval under § 3(a) of the Bank Holding Company Act. No purchases would be made in contemplation of approval. Should the employee participant of the five percenter desire to transfer his funds out of Fund C into another fund, then the trustees would sell on the open market, if any, or if none then to those suggested as interested by the President and Directors of the five percenter.

The only five percenter stock owned by the trustees would be that which ultimately would go to employee members upon retirement plus that acquired prior to July 1, 1966.

(4) Future acquisition of five percenters. If at the request of persons in a community to organize a new bank or of management of an existing bank, the Holding Company deemed it expedient to invest in ownership of 5% of a bank's stock, it would make such purchase. It would usually furnish a President for the five percenter, acceptable to the five percenter. Also, it would furnish one or two directors or advisory directors acceptable to the five percenter. It would extend its profit sharing and pension plan, other employee benefits and group insurance coverages to the new five percenter and its employees.

ALSTON, MILLER & GAINES

~~As is now in process placement of other stock in market;~~ The new President of the five percenter could purchase stock for ~~his own account~~ employees at the five percenter ~~and his own~~. Sales will not be made to National, Holding Company, subsidiaries of either or trusts for the benefit of stockholders or employees of any of these except as may be authorized by law. If the new President should have to borrow money, he would borrow from other than National, Holding Company or subsidiaries of either.

(5) Personal ownership of stock by Mills Lane and Joe Hall of stock in five percenters which was bought from the C & S Profit Sharing Plan described in Joe Hall's letter of June 12, 1968, will be handled as you advise.

(6) Regulation L. ~~Under state law the Boards of Directors shall fill vacancies until the next annual meeting (January 1969).~~ All officers of National who are officers of five-percenter ~~state~~ banks in Tucker, Stone Mountain and North DeKalb and of Citizens State Bank of Augusta will not stand for re-election at the next annual meeting, but may serve as advisory directors thereafter. ~~All officers of National, who now are directors of the five-percenter national banks in Chamblee and Sandy Springs~~, will resign to avoid any future questions arising as to violations of Regulation L, but may serve as advisory directors on the Boards of these banks.

Youmans has resigned from the Board of Directors of the five percenter in Forest Park and has been elected an advisory director.

Sincerely,

Henry J. Miller

Henry J. Miller

HJM/mm

cc: Mr. James R. Smith (2)
Mr. Mills B. Lane, Jr.
Mr. Joseph A. Hall, III

FEDERAL RESERVE BANK OF ATLANTA

Legal Department

To: Mr. Joe Hill R703

Copy of Tom O'Connell's memorandum

Jim Smith

E- 209

Urban Development Corporation

C & S representatives were advised that the matter of their proposal was the subject of current study by the Board and that under those circumstances we believed nothing to be gained by a discussion of the same at this meeting. They were assured that the Board's letter, the substance of which was transmitted by Mr. Stephenson, was transmitted in the context of the newspaper article announcing a proposed corporation. Letter was intended to put C & S on notice in advance of corporation formation as to prior position of Board in a similar case involving a proposal for bank holding company acquisition of a mortgage company. Mr. Lane indicated he understood the purpose and intent in writing the letter and that C & S would await word from the Board on its corporate activity.

C & S Proposal - re liquidation of loans classified "loss" in each subsidiary bank

C & S proposes that C & S National and each subsidiary bank pay to C & S Holding Company 1 per cent of the outstanding balance of all term loans made by each bank, and thereafter, a continuing annual 1 per cent contribution on the unpaid balance of any outstanding loans. This sum, denominated a pooled reserve, would be in the nature of an insurance reserve against bad debts and would apparently operate in the same manner as the characteristic reserve for bad debts. We registered a question with regard to C & S's proposal, under § 4(a)(2) of the Act, pursuant to which C & S Holding Company would itself receive the 1 per cent contribution and thereafter liquidate loans denominated by it as "loss". C & S proposes to make such determination

as distinguished from that which might be made by a bank supervisory authority and, after a time, C & S hopes that each of the participating banks would "learn" when to transfer a loan to C & S Holding Company as "loss". We expressed uncertainty as to whether the proposed activity constituted "furnishing services to or performing services for" subsidiary banks as contemplated by § 4(a). Rather, we expressed the view that the proposed activity would be of the nature contemplated by the language of § 4(c)(1)(C) or (D) of the Act. C & S representatives immediately agreed to abandon the Holding Company's role in its proposal and agreed to form a separate subsidiary company to perform the liquidation functions, thus bringing the activity more squarely within § 4(c)(1)(D). They concluded with an expression of desire to expand this function to the C & S 5% banks as soon as an appropriate methodology could be worked out.

C & S - 5% Banks

Our discussion treated principally with C & S's proposal to use its Profit Sharing Plan as a vehicle for acquiring stock in 5% banks for the employees of those banks. In brief, C & S proposes to submit one application per 5% bank per year, wherein Board approval would be sought for the acquisition of a specified percentage of the bank's outstanding stock. The proposal contemplates that each employee of a 5% bank will be given a year-end opportunity to designate investment of his contributed funds and those contributed by the bank for the purchase of the employer-bank stock. In September of each year,

an employee is given the opportunity to change previously designated investment plans. C & S hopes to combine the September-December designations into a single application seeking approval of acquisition of the aggregate amount of bank shares designated. Thus, in a given year, C & S may file as many as twenty or more applications, as few as one, or perhaps no application will be filed. C & S was told that each application will be viewed in the light of the standards set forth in section 3 of the Act; that, unless otherwise ordered by the Board, consummation of each acquisition approved will be subject to the usual 30-90 days' time conditions; and that the staff would cooperate with C & S in an effort to permit utilization by C & S of an abbreviated version of the section 3 application form.

Regarding previous practices by C & S reflecting an apparent control over shares of bank stocks beyond and in excess of the 5 per cent direct investment of which we have knowledge, it is our understanding that C & S concedes that certain actions above and beyond the acquisition of 5 per cent of the banks' stock constitutes ownership or control by C & S, and that, accordingly, C & S has agreed to the following limitations upon such acquisition or control action:

(1) C & S will no longer select or utilize individuals as "agents" or "nominees" for the purpose of acquiring shares in excess of the 5 per cent owned by C & S;.

(2) neither C & S National Bank nor System affiliated banks will any longer make loans to officers of 5% banks for the purpose of

purchasing stock of such banks. Such loans will be made from nonaffiliated banks, and stock purchased with the proceeds of such loans will not be pledged, directly or indirectly, to C & S Holding Company, C & S National Bank, or affiliated banks;

(3) C & S Profit Sharing Plan will acquire stock in the 5% banks only after receiving prior Board approval for such acquisitions;

(4) Mills Lane will sell stock acquired from the Pension Plan in the DeKalb Bank, Warner Robins Bank, and any other bank the stock of which was acquired by the Pension Plan subsequent to July 1, 1966, and then transferred to Mills Lane. Similar divestment action will be taken by any other individual who is an officer, director, or trustee, etc., of C & S Holding Company or Pension Plan to whom bank stocks acquired by the Pension Plan subsequent to July 1, 1966, have been transferred;

(5) C & S representatives have agreed that, with respect to 5 per cent investments in banks, neither C & S nor the Profit Sharing Plan will utilize the services of a broker, dealer, etc., to acquire or retain for C & S's account blocks of stock above the 5 per cent owned by C & S. It is understood that the Profit Sharing Plan will go into the market for such shares as may be designated for purchase by employees of the 5% banks, and that if sufficient shares are not available, the designating employees will be so notified and will be requested to make other investment designations for the funds contributed by them to the Profit Sharing Plan.

Mr. Miller has been asked to submit a written memorandum of understanding of our June 11 meeting, which will be reviewed by the Reserve Bank's counsel, Mr. James R. Smith, and any points of contest resolved between Mr. Miller and Mr. Smith.

The only commitment to action made by Board counsel was to transmit to C & S as soon as practicable advice as to any Board action taken with respect to the activities of C & S subsidiary, Urban Development Corporation, Inc.

T. J. O'Connell
June 17, 1968

GX-170

R705

LAW OFFICES

ALSTON, MILLER & GAINES

1000 CONNECTICUT AVENUE, N. W.
WASHINGTON, D. C. 20036
202-223-1550

ATLANTA

June 20, 1963

Mr. James R. Smith, Counsel
Federal Reserve Bank of Atlanta
Atlanta, Georgia

Dear Mr. Smith:

Joe Hall tells me of his conversation with you with respect to my letter of understanding dated June 17, 1963. I am fully in accord with the suggestions you make and I send to you revised copies thereof. A xerox copy of page three as rewritten goes both to Mr. Lane and Mr. Hall.

Sincerely,

Henry J. Miller

Henry J. Miller

HJM/ma

cc: Mr. James R. Smith (2)
Mr. Mills B. Lane
Mr. Joseph A. Hall, III

E-215

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The new President of the five percenter could purchase stock for himself. Sales will not be made to National, Holding Company, subsidiaries of either or trusts for the benefit of stockholders or employees of any of these except as may be authorized by law. If the new President should have to borrow money, he would borrow from persons or institutions other than National, Holding Company or subsidiaries of either. Other stock that may be available for sale would be handled through an independent stock broker.

(5) Personal ownership of stock by Mills Lane and Joe Hall of stock in five percenters which was bought from the C & S Profit Sharing Plan described in Joe Hall's letter of June 12, 1968, will be handled as you advise.

(6) Regulation L. All officers of National who are officers of five percenter banks in Chamblee, Sandy Springs, Tucker, Stone Mountain and North DeKalb and of Citizens State Bank of Augusta will resign to avoid any future questions arising as to violations of Regulation L, but may serve as advisory directors on the Boards of these banks.

Youmans has resigned from the Board of Directors of the five percenter in Forest Park and has been elected an advisory director

Sincerely,

Henry J. Miller

cc: Mr. James R. Smith (2)
Mr. Mills B. Lane
Mr. Joseph A. Hall, III

E- 216

BOARD OF GOVERNORS

FEDERAL RESERVE SYSTEM

GX-177

[1-15.6]

GX 177 IDENTIFICATION
OFFERED
RECEIVED
EXCLUDED
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- - -

In the matter of:

THE CITIZENS AND SOUTHERN NATIONAL BANK AND SUBSIDIARIES

Federal Reserve Building,

21st and Constitution Avenue, N.W.

Washington, D. C.

Monday, April 22, 1968.

Met, pursuant to notice at 10:00 A.M., Thomas J. O'Connell, Deputy General Counsel, presiding.

Present:

Mills B. Lane, Jr., President, the Citizens & Southern National Bank.

Joseph A. Hall, III, Executive Vice President and Comptroller, the Citizens and Southern National Bank.

Howard S. Starks, Executive Vice President, the Citizens and Southern National Bank.

Louis J. Fortuna, President, the Citizens and Southern National Bank of Sandy Springs.

Thomas J. O'Connell, Deputy General Counsel, Federal Reserve System.

Lawrence Noble, Senior Attorney, Legal Division, Federal Reserve System.

Mrs. Pauline Heller, Senior Attorney, Legal Division, Federal Reserve System.

Brent Leavitt, Deputy Director, Division of Examinations, Federal Reserve System.

John Lyon, Supervisory Review Examiner, Division of Examinations, Federal Reserve System.

Don. Kline, Research Examiner, Division of Examinations, Federal Reserve System.

James Smith, Counsel, Federal Reserve Bank of Atlanta.

Robert M. Stephenson, Vice President, Federal Reserve Bank of Atlanta.

Lawrence Jolliffe, Attorney, Antitrust Division, Department of Justice.

- - -

PROCEEDINGS

MR. O'CONNELL: If I may, then, for the record, I am Thomas J. O'Connell, Deputy General Counsel for the Board of Governors.

We have identified for the record the other individuals present here this morning.

May I briefly state at the outset the purpose for this meeting.

As we are all aware, inquiry was made sometime ago with respect to the so-called five-percent stock interest in a number of banks held by the C and S Holding Company System.

The five-percent ownership itself was identified by the C and S System but came to a head, as it were, with respect to the proposed merger of the C and S National Bank and the C and S Bank of Augusta.

MR. LANE: Commercial and Savings Bank.

MR. O'CONNELL: In that statement of application regarding that merger, a pronouncement was made by the applicant with respect to the management talent that had been lent that bank, the other assistance that had been lent the bank by C and S, concluding with the General Position that in all respects, at least as we read it, the operation of the bank was strongly under the guidance, assistance and leadership of C and S.

Now, in our letter to you with respect to this five

Now, in our letter to you with respect to this five percent ownership, we interpreted that as control of that bank by the C and S System.

Directly in your response you controverted this and denied that such control existed. Rather you identified the relationship which you had with this and other five percent owned banks and, as I recall, you characterized it as a correspondent associate and, I believe, that your annual report so terms these relationships.

Well, gentlemen, then back to the purpose of this meeting.

We of the Board Staff, and I believe the Federal Reserve Bank of Atlanta, looking at the so-called five percent direct ownership of C and S in these some 23 or 24 banks, whatever the exact number, we find additional prima facie evidence in our judgment of possible elements of control.

Now, under the Bank Holding Company Act a bank holding company is entitled to own five percent of the stock or control five percent of the stock of another bank and does not have to come to the Board of Governors under the statute for such acquisition.

However, the statute does prohibit direct or indirect acquisition of ownership of control beyond that five percent limit without the prior approval of the Board.

This is the thrust of our inquiry here. We have

directed written inquiries to you. You have responded. But in our judgment the answers weren't as precisely responsive as we desired and I think they are insufficiently responsive to enable us to make a final judgment.

It is important to us that you know this this morning and at this point may I say we appreciate your courtesy in so promptly responding and attending this conference today. Our point is to get information, to get facts, to enable us to make a judgment on the principal issue I have mentioned.

When this record is finished -- and that by the way is why we had a court reporter here this morning. I think in fairness to you you are entitled to know precisely what questions were asked and what responses were given. We will then have a written record of the responses that will enable us to make a judgment as to what extent we have additionally gathered facts toward this decisional function and we will either make a judgmental recommendation to the Board with respect to the status of these banks, or if necessary we will recommend to the Board that it be further referred to an administrative or a law enforcement agency. That is the purpose of this meeting.

I should say that this isn't merely the concern of the Board.

As you may be aware, we have had considerable congressional inquiry both on an individual Member basis and on a committee basis with respect to possible loopholes in the

existing Bank Holding Company Act. This is aimed at the Board's recommending, if it feels appropriate, additional changes in the Bank Holding Act to close what we would regard as loopholes. And specifically these inquiries have related to certainly not your operation, namely, but indirect ownership or control beyond direct stock ownership.

A further element of control mentioned is the making of a loan secured by the stock of a bank and to what extent either by agreement or by loan the terms of the loan or by the security terms such stock can be controlled by the lending holding company. These are the areas of inquiry that have been pressed upon us by the members and the Committees of Congress and we have a response to pursue them.

With that background, I would like to ask Mr. Noble and other members of our groupe here who feel that they have questions to proceed and I will ask you gentlemen to answer as you see fit and by whom you see fit.

MR. LANE: Do you think it would be helpful if I tried to set the scene with just a little background of the Bank and its philosophy?

MR. O'CONNELL: I think it would be most helpful and please proceed as you wish, Mr. Lane.

MR. LANE: The C and S Bank has had a continuity of management ever since my grandfather founded this little bank in Balbosta in 1866. When my father died in 1946, his estate

at the time had some dozen country bank stocks in banks like Wadley, Blackshear, Greensboro, Jessup, Mount Vernon, Early, and as I grew up and as the State of Georgia developed, Savannah was our headquarters office, was the port of the State and that was where the movement of cotton and lumber and tobacco and rice came. And my father followed a philosophy of encouraging the organization of new banks, and this was even during the period when branch banking was permissive in the State of Georgia. And his reason for taking a minority position in a bank was to be able to influence the correspondent bank account.

I grew up in that atmosphere of minority interest in new banks as a means of influencing the correspondent bank relationship.

The development of our five percent interest in a bank has come about in two ways. The first way has been in banks where management had deteriorated through old age to the point that they came to us to seek a relationship with the Citizens and Southern National Bank to provide management. In no case in the entire history of this bank have we ever gone to a community either to buy an interest in a bank or to organize a new one. It has always been the approach has been to us, as in the first case where the management of a bank had deteriorated.

The three outstanding cases of this are the American

National Bank of Brunswick, the Bank of Tifton, the Moultry Banking Company, the Jackson National Bank, the Farmers and Merchants Bank of Fayetteville, and the Bank at Pelham.

The only organization of new banks that the Southern Holding Company has taken a five percent interest in has been in metropolitan areas where local business communities wanted to start a new bank on their own and sought us to provide management.

The only way that we could provide management for a bank was to have continuity of the exchange of personnel between banks. The five percent investment followed the identical philosophy of my father of influencing but not controlling the correspondent bank relationship.

The five percent relationship also made it possible for a movement of personnel between any banks with other continuity of all pension, profit-sharing, employees' benefits, so that the man that went to run the bank continued really in the Citizens and Southern family. It if hadn't been for our being able to extend those benefits we would not have been able to get a man to leave the Citizens and Southern Bank, as Lou Fortuna has, to run the Citizens Bank at Sandy Springs. It has been that link that has produced, I think, the basis upon which these banks have been founded.

Both those that we have purchased into that were existing banks or new ones.

Now, throughout all of these we have never sought to control the election of directors, but have sought to have satisfied stockholders because of the progress and profit of the bank, and we have seen here most tellingly, I think, in the last two years a strong desire of a unit bank to be identified with the Citizens and Southern. And that is a great change in philosophy.

There was the time when the unit banks, for example, when we went to Tipton they insisted there be no mention that the Citizens Southern had a five percent interest in it. Today they want to put on the door we are an associate correspondent of the Citizens Southern. I think that is because of the reputation this bank has developed to provide unselfish service.

I can take this one step further. That here we went, this is part of our philosophy, we go to Jamaica and help organize the first home owned bank that the Jamaicans have. Although we own 49 percent of the bank, with the approval of the Federal Reserve, we are not in a control position in Jamaica, even with a 49 percent ownership, and have agreed with the Jamaicans they can buy us out at any time.

That has been true of every minority investment that we have ever had. We had a five percent minority investment in the bank at College Park. Other people went to the other stockholders and bought the majority of the stock and we let them have our five percent too. The same thing happened in

Pelham where we had a five percent interest but with the identical same relationship between our parent bank and holding company in that bank as there was in any other five percent bank. They decided they wanted to buy us out and we sold to them.

The same thing happened in Carterville. So in every one of these five percent relationships there has been this underlying philosophy of this bank of serving, of influencing the correspondent bank account, of helping that community have a bank that could join hands with ours to provide better local banking service.

In only one respect have I had any qualm or worry and that was when we bought the bank at Tucker or took a five percent interest in the bank at Tucker, and the former president insisted that the name of the bank be changed to the Citizens and Southern from the Bank of Tucker. And I was a little bit worried about that because that implied the name is unusual and yet there had been a precedent for that too.

Long years ago a bank was started in Philadelphia called the Citizens and Southern Bank. It was the first Negro-owned bank in Philadelphia. The man had come from Savannah and my father wrote him and said, Doctor, why did you name this bank in Philadelphia the Citizens and Southern Bank, and he said, Mr. Lane, that is the best name I have ever known in the banking business and that is why I let it have that name.

I look on the use of the name Citizens and Southern as identity with the strong institution, not with control, but sort of the same relationship that Howard Johnson or Holliday Inn would have in it. We are going to help you run our style of bank and you have in effect got the franchize to use our name so that you will have a better bank.

That isthe background of what we have done, the way we have done it, and I think it is universal to all five percent banks, not just isolating Commercial and Southern of Augusta.

MR. O'CONNELL: May I ask, in any instance where a five percent owned banks uses the C and S title, I will call it, or the C and S name, has it at each instance been at the request of the bank that that name has been assumed?

MR. LANE. No. We were so pleased with what happened at Tucker with the change of name that we suggested to Stone Mountain and to Chamblee that they consider the same thing. Stone Mountain did not want to change their name until they saw what had happened at Tucker. But it was an evolution but it was not -- we suggested it would help them, yes, in a couple of cases.

MR. O'CONNELL: And if I may, to cover those where it appears -- the Belevedere Bank?

MR. LANE: It was a brand new bank, not an existing bank.

MR. O'CONNELL: So the name would be your selection?

MR. LANE: Right.

MR. O'CONNELL: And the North DeKalb Bank?

MR. LANE: The same thing.

MR. HALL: The name wouldn't be our selection. It would be the selection of the Board of Directors of that bank.

MR. O'CONNELL: I understand. But may I assume, from what Mr. Lane said, the suggestion was made, for instance, for the Board of Directors of the business advantages of having the C and S name in the bank?

MR. HALL: We acquainted them with what happened at Tucker and we told them we felt they ought to know that they were actually in competition with Tucker, very close, and we felt that as a matter of courtesy they ought to know ahead of time that the bank in Tucker wanted to change their name to the Citizens and Southern.

I said obviously we are prejudiced, we would think that the name Citizens and Southern means something, but the decision is yours.

The Board of Directors of Stone Mountain voted and decided not to change the name of their bank. A year later, approximately, without anything on our part, they came back and said, Joe, we made a mistake. We think now we ought to change the name. Does the C and S still have no objection? Obviously we had no objection, I told them. And at that time they

changed the name to Citizens and Southern Bank of Stone Mountain.

The same thing happened with each one of them, even the new ones, that if they wanted to use the name it was all right.

We have never, absolutely never -- because I think this is something that is their decision -- we never insisted that in order to get any help from us that they change the name to Citizens and Southern. We think it means more to them than it means to us.

MR. STARKS: The case in Chamblee is still under discussion.

MR. O'CONNELL: Are there any banks in which you don't own five percent but for whom you are a major correspondent that carry the C and S name?

MR. LANE: No.

MR. O'CONNELL: If one of them wanted to do so, would you object?

MR. LANE: I think we would.

MR. O'CONNELL: For what reason, may I ask, Mr. Lane, since it would also project this image?

MR. LANE: It would imply it had the status of a correspondent associate.

MR. O'CONNELL: Would I understand that there is in your mind a difference between correspondent associate and

correspondent?

MR. LANE: Yes, sir. A correspondent associate is one in which we have a five percent investment and where the bank says so.

MR. HALL: And it is also where there is an ex-C and S man in charge of the bank. I think this is a big difference.

MR. SMITH: In a case like the Citizens Bank in Sandy Springs, which is now Citizens and Southern, do they apply to the Comptroller of the Currency for a name change and the Comptroller of the Currency clears this with you?

MR. HALL: I believe the Comptroller cleared it with us. Obviously it had our permission because Howard Starks was a member either on the board or advisory board member at that time and they would clear it with us.

MR. LANE: I think this subject has come up once or twice with the Comptroller and the State Superintendent of Banks. They think this name is unusual and I don't think they would approve the use of the name Citizens and Southern without our approval.

MR. O'CONNELL: Am I correct that under Georgia law basically you are the ones who have the right of objection to the use of such name by another bank?

MR. HALL: That is my understanding.

MR. STARKS: They bring us a letter each time and we have approved or stated no objection.

MR. NOBLE: What assurance do you have that the bank using that name will not engage in a type of business which would not reflect well on the name?

MR. LANE: That is the gamble we have taken. The only misgiving I ever had about our lack of control is the use of this name.

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM

WASHINGTON, D. C. 20551

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ADDRESS OFFICIAL CORRESPONDENCE TO THE BOARD

March 15, 1972

60-111-2042
DEPARTMENT OF JUSTICE
3/20/72
DIVISION OF RECORDS
ANTITRUST Civil

Mr. Donald I. Baker
Director of Policy Planning
Antitrust Division
United States Department of Justice
Washington, D. C. 20530

Re: United States v. Citizens & Southern National Bank, et al. (N.D. Ga.)

Your Ref: WEC:DIB, 60-111-2041

Dear Mr. Baker:

I am writing in reply to your letter to me dated March 2, 1972, regarding the above-captioned matter in which the complaint alleges a violation of section 1 of the Sherman Act (15 U.S.C. § 1) by Citizens & Southern by virtue of operating relationships between Citizens & Southern and various other banking institutions in which Citizens & Southern has held a stock ownership interest of 5 per centum or less. A motion to dismiss and to strike the section 1 allegations has been filed by Citizens & Southern in the captioned matter based in part upon their representations concerning the conduct and outcome of an "investigation" conducted by Board staff under the Bank Holding Company Act of 1956 into the affairs of Citizens & Southern respecting certain relationships with the banking institutions referred to above in 1968. You have set forth in your letter a number of specific questions concerning such investigation to which you request response. For convenience of reference, these questions are repeated hereinafter with the appropriate response following immediately.

DEPARTMENT OF JUSTICE
MAR 18 1972
R.A.O.
ANTI-TRUST

(1) Was the "investigation" referred to by defendants initiated as a result of the submission of an application to the Board for approval of an acquisition, merger, or consolidation transaction under Section 3 of the Bank Holding Company Act?

E- 232

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No. The fact finding inquiry undertaken by Board staff into the relationship between Citizens & Southern and the other banking institutions referred to was begun in 1966 and continued into 1968. The principal focus of the inquiry concerned essentially two questions: (1) whether Citizens & Southern had unlawfully acquired a direct or indirect stock ownership in these banking institutions in excess of 5 per cent without first having secured the requisite prior Board approval; and (2) whether the banking institutions had unlawfully become subsidiaries of Citizens & Southern by virtue of the election of directors without first having received the requisite prior Board approval. The inquiry arose in 1966 out of information contained in Citizens & Southern's registration statement filed with the Board and in 1968 as a result of information supplied by the Comptroller of the Currency in connection with the merger of the Citizens and Southern National Bank and the Citizens and Southern Bank of Augusta. The inquiry referred to was not initiated as a result of any application filed with the Board for approval of an acquisition, merger, or consolidation transaction under section 3 of the Bank Holding Company Act.

(2) Did the Board of Governors issue any formal order approving these "affiliation" relationships under Section 3 of the Act?

No. The Board of Governors did not issue any order approving the relationships between Citizens & Southern and the other banking institutions under section 3 of the Bank Holding Company Act.

(3) If not, what other decisions were reached or actions taken concerning the relationships in question by the Board or its staff? Was there any determination that the Board's approval under Section 3 of the Act was required in order for the "affiliation" relationships in question to continue?

There was no determination made that approval of the Board under section 3 of the Bank Holding Company Act was required for Citizens & Southern to retain an ownership interest of 5 per cent or less in the banking institutions referred to or to maintain the relationships with those banks in circumstances where Citizens & Southern did not elect a majority of the directors of any such bank. There was an understanding reached between members of the Board's staff and representatives of Citizens

& Southern that in those cases where Citizens & Southern purchased 5 per cent or less of the stock of a bank, in some instances furnishing a principal operating officer for such bank, as well as other employee benefits, Citizens & Southern would not be deemed to have control of a majority of the directors of such bank on these facts alone. Further, where the foregoing circumstances existed and where control of additional shares was purchased by the bank's executive officer, control of such shares purchased would not be attributed to Citizens & Southern so long as Citizens & Southern did not finance the purchase of such shares, directly or indirectly. Finally, it was understood that even though Citizens & Southern was responsible, directly or indirectly, in placing one or two directors on the boards of such banks, if that number did not constitute a majority of directors of such bank, the Board's staff would not consider that Citizens & Southern could reasonably be held to have control of a majority of the directors of such bank.

(4) If the answers to (2) or (3) above are affirmative, was the Attorney General notified of these actions?

Reply not necessary.

(5) Why was a representative of the Department of Justice invited to attend the conference referred to by defendants?

A representative of the Department of Justice Antitrust Division was invited to attend the conference in April 1968 inasmuch as the Department is the agency of the Government having primary responsibility for enforcement of Federal laws with particularized responsibilities relating to possible anticompetitive practices and in view of the fact that any willful violation of any provision of the Bank Holding Company Act may be referred by the Board to the Department of Justice for appropriate investigation and action.

Very truly yours,

Tynan Smith

Tynan Smith
Secretary of the Board

E- 234

GX-177 D

BOARD OF GOVERNORS
OF THE
FEDERAL RESERVE SYSTEM
WASHINGTON, D. C. 20551

ADDRESS OFFICIAL CORRESPONDENCE TO THE BOARD

April 21, 1972

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WITHDRAWN	

Michael A. Doyle, Esq.
Alston, Miller & Gaines
Citizens & Southern National
Bank Building
Atlanta, Georgia 30303

Re: United States v. The Citizens and Southern National Bank, et al., Northern District of Georgia

Dear Mr. Doyle:

This is in reply to your letter of March 31, 1972, requesting a response to each of seven questions respecting issues raised in the above-captioned matter. For convenience of reference, those questions are repeated hereinafter with the appropriate response following immediately.

1. What was the jurisdictional authority of the Federal Reserve Board in 1966 and 1968 to conduct its inquiry in 1966 and 1968, which included investigation by written questions and the Washington hearing?

The principal jurisdictional authority of the staff of the Board of Governors to conduct a fact finding inquiry into certain of C&S's affairs in 1966 and 1968 -- including the submission of written questions to C&S and the holding of various meetings or conferences between the representatives and staffs of C&S and of the Federal Reserve -- was the Bank Holding Company Act of 1956, specifically those provisions authorizing the Board to issue necessary regulations and orders (Sec. 5(b) of the Act); requiring reports to assure compliance with the Act and regulations issued thereunder (Sec. 5(c)); and proscribing willful violations of any provision of that Act (Sec. 8). At the conference held in Washington, D. C., on April 22, 1968, it was also stated to representatives of C&S that one further purpose of that meeting would be to ascertain whether the types of questions raised in the C&S matter should be the subject of a recommendation to Congress concerning the need for legislation.

2. Did the Board find any practices or activities on the part of C&S which were regarded as unlawful? If so, did representatives of the C&S agree with the Board's staff to discontinue them?

Neither the Board nor its staff denominated any practice or activity on the part of C&S as "unlawful". Representatives of C&S conceded that certain of its actions resulted in its having owned shares in various banks in excess of the 5 per cent statutory ceiling. Accordingly, C&S agreed to limit its activities in relation to the acquisition of shares by other persons in those banks (in which C&S had or might obtain a direct 5 per cent ownership interest) to the end that C&S would not be held to indirectly own or control additional shares.

3. Was an understanding reached between members of the Board's staff and representatives of C&S that C&S could continue to help organize new banks and supply management for existing banks when requested to do so by persons in the community whereby C&S Holding Company would purchase 5% of the bank's stock, furnish a President and one or two directors or advisory directors and extend employee benefits to employees of the 5% banks? In this regard I attach as exhibits letters from Mr. Henry J. Miller to Mr. James E. Smith, Counsel of the Federal Reserve Bank, following a meeting between C&S representatives, Mr. Smith, and Mr. Thomas J. O'Connell, General Counsel of the Board, and refer to paragraph (4) thereof.

There was no affirmative understanding that C&S could continue to engage in the prescribed actions. There was an understanding reached between members of the Board's staff and representatives of C&S that in those cases where C&S purchased 5 per cent or less of the stock of a bank, in some instances furnishing a principal operating officer for such bank, as well as other employee benefits, C&S would not, on those facts alone, be deemed to have control of a majority of the directors of such bank. Further, where the foregoing circumstances existed and where control of additional shares was purchased by the bank's executive officer, control of such shares would not be attributed to C&S if C&S had not financed the purchase of such shares, directly or indirectly. Finally, it was understood that even though C&S was responsible, directly or indirectly,

in placing one or two directors on the boards of such banks, if that number did not constitute a majority of directors of such bank, the Board's staff would not consider that C&S could reasonably be held to have control of a majority of the directors of such bank.

4. If the outcome of that investigation and hearing had been different, what were possible consequences under the Board's jurisdiction? For instance, if the Board had found that C&S had controlled the election of a majority of the directors of the 5% banks, is it possible that C&S could have been required, or that C&S would have been permitted, to file an application under Section 3 of the Bank Holding Company Act? Is it possible that the Board could have requested initiation of criminal proceedings against C&S and/or its representatives if willful violations of the Bank Holding Company Act had been found?

It is possible that the Board of Governors could have requested the Department of Justice to initiate criminal proceedings against C&S if C&S had been deemed to have willfully violated the Act either by its having acquired a stock ownership interest in a bank in excess of 5 per cent, or by its having caused such bank to become a C&S subsidiary by virtue of the fact that C&S controlled the election of a majority of its directors without, in either case, having obtained the prior approval of the Board of Governors. It is likely that if the Board's staff had believed that such a willful violation of the Act had been presented, it would have recommended to the Board that opportunity be given to C&S to cease such violations through termination of the unlawful relationship before the matter would be referred to the Department of Justice, or before an application under Section 3 of the Act would be considered by the Board.

5. Was an understanding reached between members of the Board's staff and representatives of C&S that if the C&S desired to expand its ownership of stock in the 5% banks by using its Profit Sharing Plan, yearly applications under §3(a) would be made for each bank involved? I refer to paragraph (3) of Mr. Miller's letter. Was it also understood that in view of the potentially large number of applications that C&S might be able to use a modified form for the application?

There was no understanding that C&S could expand its ownership of stock in any such banks beyond a 5 per cent interest. There were discussions concerning C&S's proposal to use its Profit Sharing Plan as a vehicle for acquiring stock in such a bank for the employees of that bank (hereinafter, "5% bank"). C&S proposed to submit one application for each 5% bank per year wherein Board approval would be sought for the acquisition of a specified percentage of such bank's outstanding stock. The proposal contemplated that each employee of a 5% bank would be given a year-end opportunity to designate investment of his contributed funds and those contributed by the bank for the purchase of the employer-bank stock. In September of each year, an employee would be given the opportunity to change previously designated investment plans. C&S hoped to combine the September-December designations into a single application seeking approval of acquisition of the aggregate amount of bank shares designated. Thus, in a given year, C&S could have filed as many as 20 or more applications, as few as one, or perhaps no application would have been filed. C&S was told that each application would be viewed in the light of the standards set forth in section 3 of the Act; that, unless otherwise ordered by the Board, consummation of each acquisition approved would be subject to the usual 30-90 days' time condition; and that the Board's staff would cooperate with C&S in an effort to permit utilization by C&S of an abbreviated version of the section 3 application form.

6. Was any part of the Board's reason in conducting its quiry and for inviting a representative of the Antitrust Division the Department of Justice to the 1968 hearing, because of conrn on the part of the Board of possible unlawful anticompetiti.e actices by C&S?

Although the stated reasons for the conduct of the fact finding inquiry were as referred to in response to the answer set forth to Question 1. above, it should be remembered that with respect to banks, banking associations, and trust companies, the Board and the Department of Justice share dual enforcement responsibilities under the terms of the Clayton Act. The 1966-1968 inquiry was neither premised nor focused on any Clayton Act question, although any anticompetitive practice found to have been engaged in by C&S could have given rise to further inquiry under the Clayton Act.

7. Was there any finding of such anticompetitive practices which required the initiation of proceedings against C&S?

The Board of Governors neither recommended the initiation of nor initiated any such proceeding.

Very truly yours,

Tynan Smith
Secretary of the Board

GX-188

INTEROFFICE MEMORANDUM

Date: February 19, 1970

To: Wendell Ballard
2 Nelson Street

From: Robert F. Clayton
Staff Marketing and
Customer Service Officer

Here's our new service charge schedule for regular checking accounts:

Maintenance charge: 75¢ per month
Activity charge: 10¢ per check

Accounts are exempt with $250 minimum balance or $1000 average.

There is no change in special checking account charges.

Timing has not been definitely set. We are preparing notices to customers and will give them 30 days notice before the new charges are applied, since we are raising the price on most accounts.

At this point, this applies to C&S National Bank in Atlanta only. I'll let you know as the affiliate and 5% banks make their decisions which are affected.

As we discussed, please proceed with the necessary programming.

RFC/2397

CC: Mills B. Lane
Joe Hall
Rountree Youman
Howard Stanks
Dan Handley
G. Raymond LeMon
Fox Randolph

E- 240

GX-189

INTEROFFICE MEMORANDUM

Date: March 16, 1970

Executive Officers
Presidents of Affiliates

From: Robert F. Clayton
Staff Marketing and
Customer Service Officers

Howard Starks has proposed, and Mr. Lane has approved, our eliminating service charges on "Senior Citizens" accounts. Augusta, Savannah and Valdosta are already offering this.

We are preparing an advertising program for Atlanta media that will promote this feature. It consists largely of small space newspaper ads.

Operationally it amounts to a change in the service charge program, giving distinct identification to these exempt accounts so they can be eliminated from periodic reviews of exempt accounts. There will be no forms involved; just memos indicating account names and numbers for the computer centers.

Please let me know whether your bank will or will not adopt this feature. Ads will be available shortly if you wish to use them.

RFC/2397

CC: Presidents - Correspondent Associates
Joe Hall
Rountree Youmans

BEST COPY AVAILABLE

GX-190

GOG: 9.19

SECTION: Loans

OPERATING BULLETIN

TOPIC: Base Charges - Regulation Z

PAGE: 1 of 1 DATE: July 31, 1972

REPLACES GOG 9.19 DATED JULY 1, 1969, SAME SECTION AND TOPIC.

The policy of assessing a $10.00 base charge plus interest on all time notes under $5,000 has been modified. In certain instances we will operate under the Georgia Industrial Loan Act, which necessitates a flat charge instead of a base charge plus interest. Loans renewed for six months or less cannot be charged a second base charge, and new loans made to a customer less than fifteen days after a loan pays out will be exempt from the charge. Thus the use of realistic final maturity dates at the inception of the loan is most important.

Please refer to Consumer Credit Operating Guide Bulletin "Over-the-Counter - Single Payment Time Loans to Individuals" for complete instructions for determining charges on single payment loans. Additional copies of this Consumer Credit Bulletin may be requested from Retail Banking Department, 17 N.B.G. Building, Atlanta.

Richard H. Zimmermann
Assistant Vice President
System Operations
6 - Mitchell

GX 190 for
IDENTIFICATION
OFFERED
RECEIVED
EXCLUDED
WITHDRAWN

E- 242

GX-191

GOG: 26.012

SECTION: Miscellaneous

TOPIC: Antitrust Actions - Agreements Between Banks

 DATE: July 12, 1972

MEMORANDUM

TO: Presidents - Correspondent Associate Banks
Presidents - Affiliate Banks
Executive Vice Presidents - National Banks

In 1962 and 1964, I sent out memos relating to certain prohibitions of the antitrust laws. The "rules" of those memos, which are a part of our operating guide, have ever since stated our policy and guided our practice in the areas they cover. They are good rules for today. I suggest a review of them would be helpful for everybody.

Recently our attorneys have quite naturally been looking closely at the relationships of C&S National and C&S Holding (plus affiliates) with the C&S 5% banks, and between and among C&S 5% banks, in connection with the Government's suit against our mergers. I enclose a copy of a letter written by Mike Doyle which states that background which leads to this memorandum. As Mike has suggested, we should emphasize some specific areas of our antitrust rules as they apply to our 5% bank relationships.

We should treat the kinds of agreements referred to in the nine numbered paragraphs of my February 26, 1964, memorandum (plus agreements to allocate customers and markets, which are not covered by those paragraphs) as being out of bounds in the relationships between C&S National (including its affiliates), and C&S 5% banks, and between and among C&S 5% banks.

Further, we must all remember that agreements to not compete do not have to be express, written or oral promises to be illegal; they may be implied from actions if those actions are equivalent in effect to an agreement. Thus if Bank A and Bank B exchange "price information" as to service charges, interest rates and the like, the purpose and/or effect of which is to fix prices or divide up the customers, then an unlawful agreement would be inferred.

Nonetheless, because the business of credit depends on information exchanges, we do not have to stop the continuing exchange of credit information which is necessary for sound banking. The information our 5% banks receive in the form of memos and other in-house communications from C&S National have been and continue to be for information only, and are neither mandatory, directory or suggestive. Each 5% bank must make its own unilateral competitive decisions.

The credit review and administration procedures we use to assure quality and soundness of our loans must not be the basis for setting the rates, except on a unilateral basis. We can continue to help each other be better bankers and help our banks be of greater benefit to the communities without violating this forbidden area. Officers involved in credit reviews should keep this primary in reviewing the worthiness of credits.

Similarly, the necessary exchange of credit information must not be used indirectly to allocate customers or markets between banks. (The limitations of the Fair Credit Reporting Act are another matter entirely.) Central Information Files should continue to be utilized by all banks, and bank officers should continue to feel free to exchange first-hand ledger information in connection with particular loans. Antitrust law does not require us to sit back and let one customer obtain his maximum credit from each of three C&S banks. The point is, though, that information exchanges to protect the soundness of loans should not be perverted either explicitly or by implication, into a conversation of "he's my customer; you stay away from him."

C&S 5% banks compete across the board with C&S National and its affiliates, and with each other, for all customers, of

all types, and all locations, for all types of business, and of course this goes the other way, too. The same goes for banking hours, new bank office sites, and locations of other facilities. There are no exceptions to this general rule.

Antitrust is not all "don'ts" however.

Where participations are involved, or other transactions where two or more banks are actually parties to a transaction, or are negotiating a joint transaction, then clearly a price agreement between them as to that situation is lawful.

There is nothing in the law which requires that a 5% bank decision, unilaterally reached, be different from a C&S National decision.

There is nothing that we know of, outside of the above areas, which prohibits C&S National and C&S Holding from doing all that they can to help the 5% banks be more competitive. Therefore you should be assured that we at C&S National and C&S Holding will continue in the future as we have in the past to be vitally concerned for the safety and success of our C&S 5% family. As parents and as stockholders, we will continue to offer every help and assistance permitted by the law, to bring better banking services to your communities and customers.

As I am sure many of you are aware, we have at various times in the past adjusted aspects of our 5% bank relationships to accord with changes or developments in the law, or to follow suggestions of bank regulatory authorities. We believe that we have at all times throughout this history stayed well within the requirements of the law in fulfilling our basic commitment that banking is, in the first instance, a public service, and that we are committed to bring full service banking to meet the convenience and needs of communities in Georgia. In that spirit, all of us can and will continue to offer the best banking around, while at the same time operating well within the laws as they may be interpreted from time to time; and we can't go wrong doing that.

Joseph A. Hall, III
President, Citizens & Southern
Holding Company

P.S. I'm sure this raises questions in your mind. We plan to get together soon and talk about this, so hold your fire til then.

LAW OFFICES
ALSTON, MILLER & GAINES
CITIZENS & SOUTHERN
NATIONAL BANK BUILDING
ATLANTA, GEORGIA 30303
404-577-8600

July 12, 1972

Mr. Joseph A. Hall, III
First Vice President
Citizens & Southern National Bank
Atlanta, Georgia

Dear Joe:

The position taken by the Antitrust Division in the Government's lawsuit to enjoin the mergers with the 5% banks is significantly different from the Division's earlier posture.

This new stance of the Government is of significance to the relationship between C&S National (and its affiliates) and the C&S 5% banks, and between and among C&S 5% banks. Let me outline this change in the Antitrust Division's posture.

In the consent judgments entered in the 1964 cases against the Duluth, Minnesota banks, the proposition was accepted by the Government that combinations and agreements which would otherwise violate the Sherman Act were not unlawful if they were between regulated bank holding companies and their subsidiaries, recognized as such by the Bank Holding Company Act.

In 1969, the Antitrust Division reported on the competitive factors involved in the application of C&S DeKalb (a majority-owned C&S affiliate) to purchase assets and assume liabilities of C&S Belvedere (a C&S 5% bank). That application was, of course, approved; the facts involved in that merger application were, in all material respects, substantially the same as those involved in the mergers now under attack in the District Court. The 1969 report of the Antitrust Division stated in pertinent part that:

> The immediate anticompetitive effects of this merger may well be lessened by the fact that the Citizens and Southern Holding Company has

had full management control of Belvedere Bank since its inception.

. . .

Since Citizens and Southern acquired its interest and management control at the time Belvedere Bank was established, the situation is not unlike de novo branch banking in those states where such activity is lawful. . . .

. . .

Because of the existing relationship between the merging banks, the increase in concentration of banking resources in DeKalb County as a result of this merger would be more apparent than real.

Thus through 1969, the Antitrust Division accepted the view that the 5% relationships were essentially equivalent to de novo branching because of C&S management control, and justified the asserting by C&S that the mergers had no anticompetitive effect, being essentially an internal reorganization. The Justice Department made no challenge whatsoever to these relationships at that time.

Then in 1970, amendments to the Bank Holding Company Act clearly brought the 5% banks within that Act's definition of "subsidiary." Thus the Antitrust Division's positions were clearly consistent in their application to the C&S facts—management control equaled the "subsidiary" exemption from the Sherman Act, and the present and contemplated 5% mergers were not anticompetitive because of that very control.

The position now taken in the District Court action by the Antitrust Division, in asserting that the 5% relationships constitute a violation of § 1 of the Sherman Act, represents a sharp change of direction. The defenses we are asserting on behalf of the banks essentially are that the Antitrust Division

was correct before it changed its position. Thus, we are asserting the "subsidiary" defense to the Sherman Act, and we are arguing further that our history of "management control" from the organization of the merging banks, means that the mergers will not have any anticompetitive impact.

Nonetheless, conservative practice dictates that the Holding Company and Bank should focus precisely on those aspects of the 5% relationships affected by the Government's new position. Even though we contest the legality of the Government's position in court, the Holding Company and Bank should make certain that their relationships accord with that position until a definitive court interpretation is received. Explicitly, we recommend that the Holding Company should make absolutely clear to all involved, those areas of their relationships with C&S National which are affected by the Division's new position are without the umbrella of C&S "management control."

As a means of accomplishing this purpose, we recommend that you send a memorandum emphasizing these aspects of the 5% relationships, perhaps along with this letter, to the appropriate bank officers, and add them as well to the general operating guides.

Sincerely,

Michael Doyle

MAD/jea

MICHAEL A. DOYLE

GX-192

COG: 26.011

SECTION: Miscellaneous

TOPIC: Antitrust Actions - Agreements Between Banks

 DATE: February 26, 1964

MEMORANDUM TO: Executive Vice Presidents - National Bank
Presidents - Affiliate Banks

None of us would like to go to jail. None of us would like to be fined. these thought in mind, I call your attention to the results of the civil and crimin antitrust actions against 17 Minnesota banks, the First Bank Stock Corporation and th Duluth Clearing House Association.

They were fined a total of $253,000.

Consent judgements resulted in setting forth the following antitrust guidel for banks in general:

1. Agreements between banks to fix uniform service charges on checking accounts or to exchange data relating to service charges is prohibited. This reaffirms the consent decree in the case of the Hunterdon County Trust Company of New Jersey in 1962.

2. Agreements between banks to fix interest rates on deposits are prohibited.

3. Agreements between banks to fix the rate of interest, terms and conditions of any loans are prohibited except where the other bank is an actual party to the negotiations or the loan transaction itself.

4. Agreements between banks to restrict the advertising of interest or loan rates, service charges or other services rendered bank customers, or the media used for such advertising are prohibited.

5. Clearing Houses are prohibited from engaging in any activity except to effect the daily exchanges between members and the payment of the balances resulting from such exchanges and activities relating to civic, charitable, educational or eleemosynary promotions.

6. Agreements between banks to restrict the solicitation of business from correspondent banks are prohibited.

7. Agreement between banks concerning the furnishing of bank drafts, stationery, bank supplies or other gifts to correspondent banks are prohibited.

8. Agreements between banks to restrict absorption of exchange charges, or absorption of loss on securities, for correspondent banks are prohibited.

9. Agreements between banks to fix rebates or commissions on loans originated by correspondent banks are prohibited.

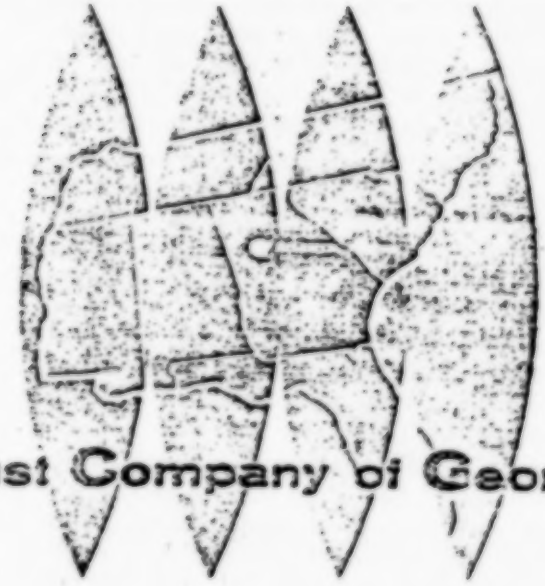
All three judgements state specifically that "transactions or communi solely between a registered bank holding company under the Bank Holding Company of 1956, or any servicing subsidiary of such bank holding company, and subsidiar of such bank holding company recognized as such under such Act, shall be deemed t transactions and communications not prohibited by this Final Judgment, . . ."

Please do review these carefully and keep them in mind in your dealing with your local competitors. Should there be any questions about any of the ite let's be sure we talk with someone else before we decide to do anything that migh cause us to get into trouble with the antitrust folks.

Joseph A. Hall, III
Vice President and Comptroller

GX-193

[1-6, 8, 10, 12, 14, 16, 18, 20, 22, 24, 28]



Correspondent Banking Services

Highlighting the advantages of having the Trust Company of Georgia as your Atlanta Correspondent.

E- 251

The Trust Company Tradition

THE TRUST COMPANY OF GEORGIA was established in 1891, and for more than 72 years has followed unswervingly its policy of bringing the best in banking services to Georgia and the South. It is now the largest state-chartered bank in the area.

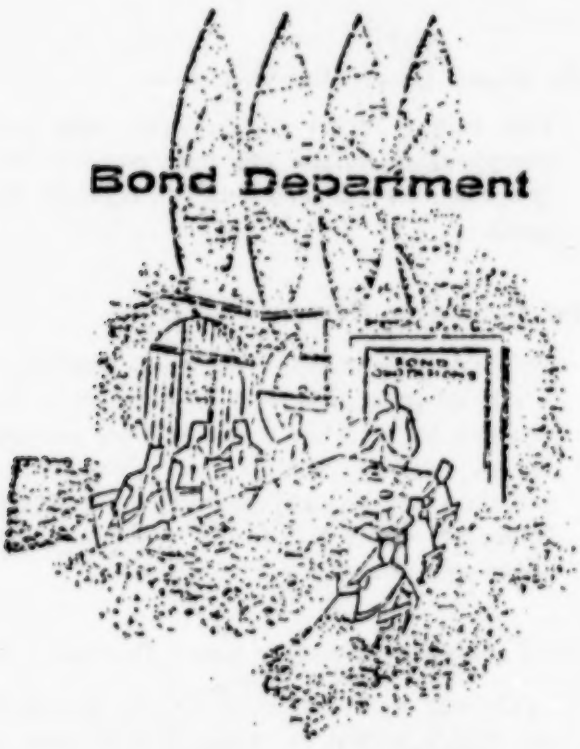
Old in tradition and experience, the Trust Company is young in its concept of what complete banking service should be. It has, for example, Georgia's largest and Atlanta's oldest Trust Department. It has one of the South's most active Bond Departments. The Trust Company was the first bank in the state with a truly complete International Department, and even today is one of three banks in the entire nation with a Factoring Department.

A second cardinal principle woven into the Trust Company fibre is that of individual, personal attention to every account. This bank does not believe that service can be rendered *en masse*. Rather, we remain convinced that each banking relationship is an individual matter, requiring personal attention by our staff for complete mutual satisfaction.

Just as the Trust Company has always aimed to bring to its commercial customers every worthwhile banking service for which a need existed, so has it served its correspondent banks in many states. Cooperating closely with our correspondent banks has always been a tradition at the Trust Company of Georgia. Service is our goal, and we encourage our correspondents to use freely those specialized banking services which are available here.

Working together, we can be of help to each other. Cooperation in this spirit is just one of the many ways in which the Trust Company of Georgia can be helpful to you as your Atlanta correspondent.

E- 252



We have been active as an underwriter and distributor since the 1890's. Our Bond Department is one of the oldest and most active departments of its kind in the Southeast. Because of a direct wire service to New York our facilities are complete for buying and selling Government bonds at net prices without commission. We underwrite and distribute state, county and municipal bonds originating not only in the Southeast but throughout the United States.

Portfolio Analysis and Management —

Officers of the Bond Department are men of wide experience in their fields. They can be helpful in making constructive suggestions affecting the composition, liquidity, earnings and taxation aspects of your portfolio. They relate your investment problems to trends of your deposits and loans, analyze your portfolio and discuss your investment policy. Feel free to call upon them for this service.

E- 253

Daily Bond Quotation Sheet —

This unique report supplies you with current quotations on bonds you may consider buying or selling. We will send it to you regularly on request.

Trust Company Review Forms —

To help you analyze your own portfolio, the Trust Company of Georgia makes Review Forms available to you without charge. They are used to list your holdings of U. S. Government Securities and show the maturity schedule. With this form before us, we are glad to make recommendations about your portfolio.

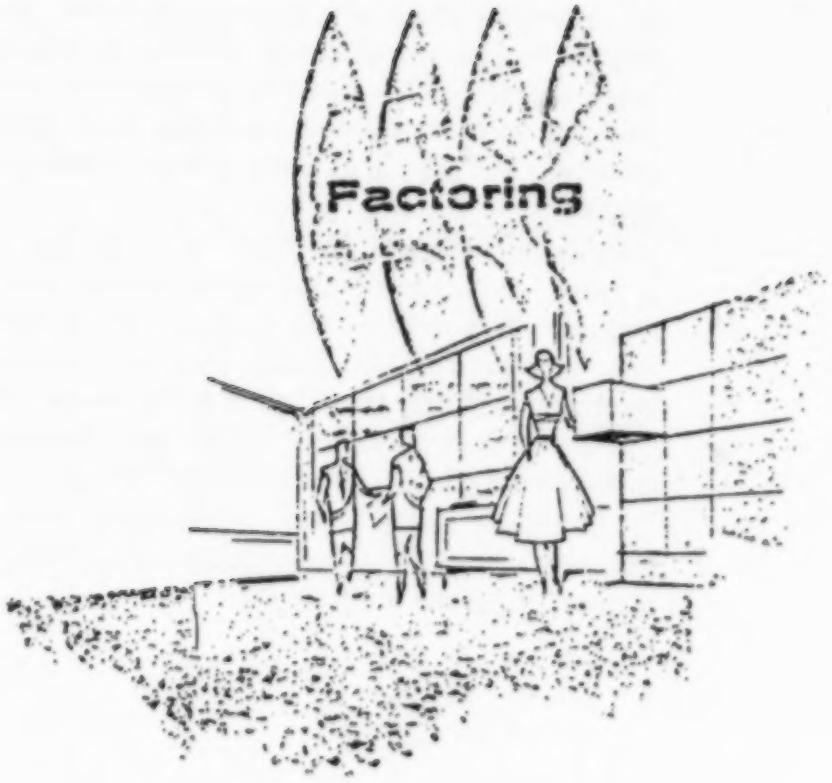
Yield Table for Viewing Bond Income —

In addition, you may find our Table of Comparative Yields helpful. It enables you to view yields of tax-free and taxable bonds at a glance.

Safekeeping of Securities

Our services are designed to receive and deliver securities for your account. We will ship them to you, or keep them in safekeeping here. When securities are held by us for you, we collect income as payable and principal when due, notify you of redemption calls, subscription or conversion privileges. This service has been very helpful in saving time and money for our correspondents.

E- 254



E-255

To serve your customers and you —

Factoring can be of great value to your customers, especially those who have requirements that may exceed your desired line or limit. Its advantages enable your customers to improve their financial position and thereby make them better customers for you. It does not disturb established relationships.

Primarily, factoring performs two services. It approves the credit of your clients' orders before shipment. It purchases the invoices arising from these approved orders. Credit risks are assumed by the Trust Company. Cash is available to your customers immediately, or as desired. Payment is made through your bank's account with us.

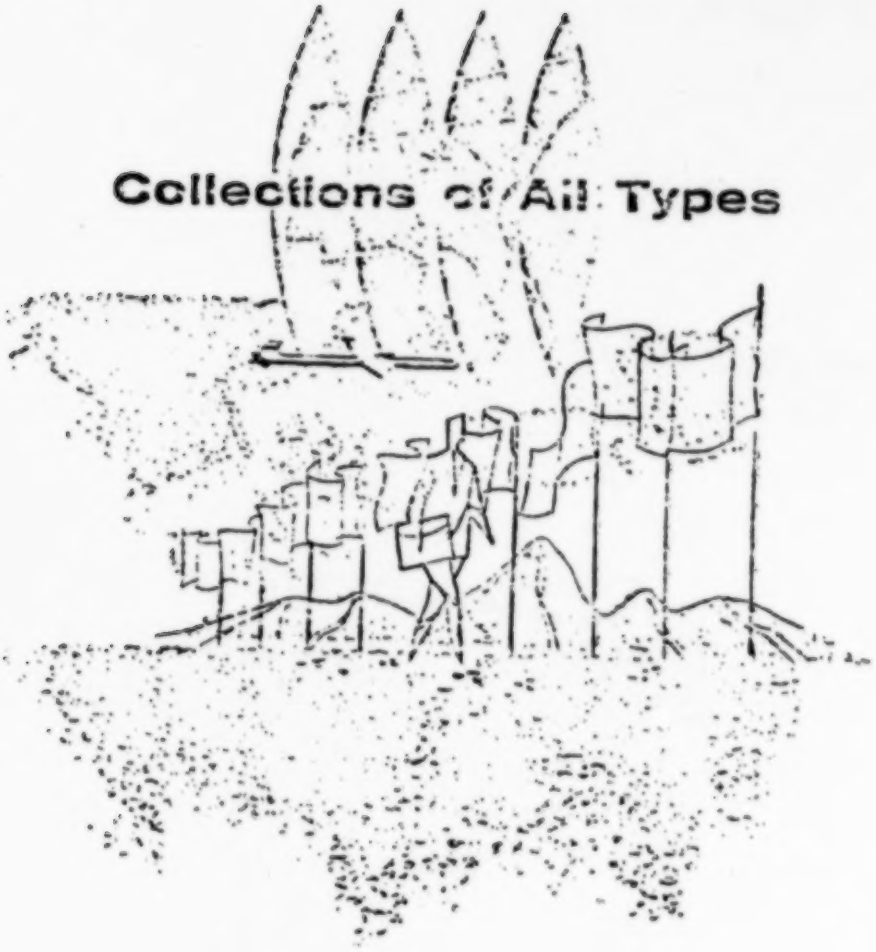
Only three banks in the United States offer a factoring service. The Trust Company of Georgia is proud to be one of the three.

Trust Services

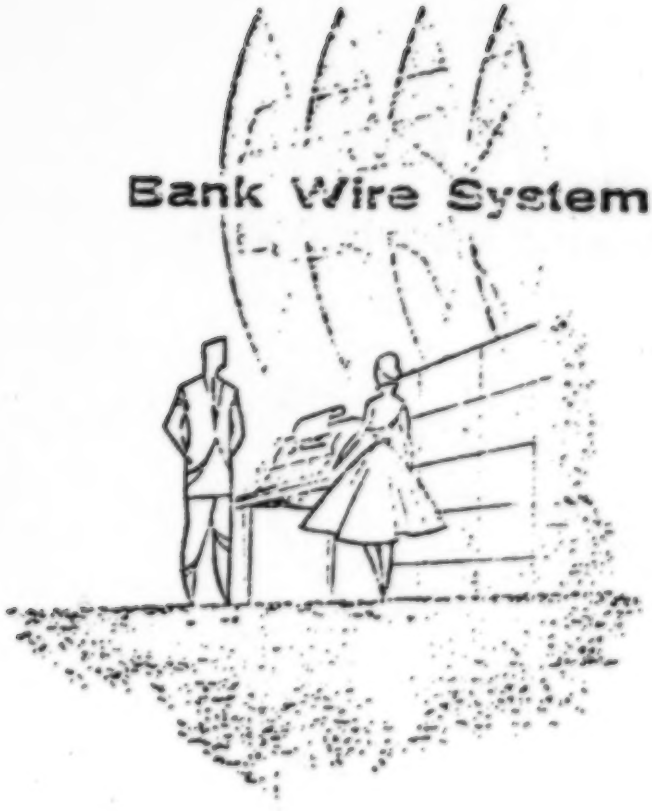
E- 258

Handling Checks and Collection Items

E- 259



E- 260



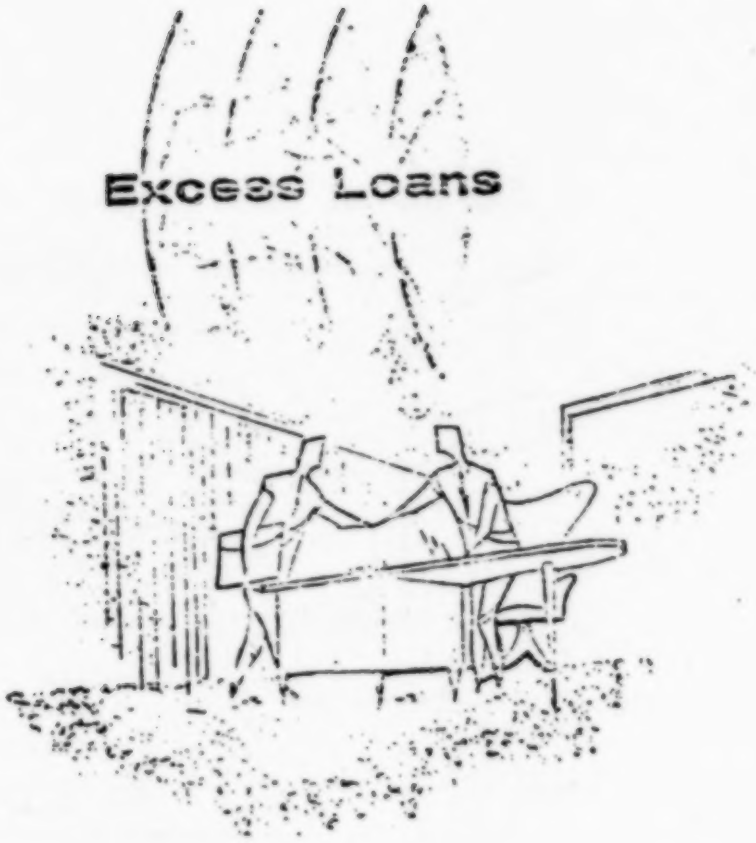
E- 261

E- 262

E- 263

Business and Industrial Development

E- 264



E- 265

E- 266

ATLANTA

and AFFILIATED BANKS

Augusta — The First National Bank & Trust Co.
Columbus — Fourth National Bank
Macon — The First National Bank & Trust Co.
North Atlanta — DeKalb National Bank of Brookhaven
Rome — The First National Bank
Savannah — The Liberty National Bank & Trust Co.

Members FDIC

E- 267

GX-194

CORRESPONDENT BANK SERVICES

Transfer of funds

Coin and currency shipments

Clearance of checks

Handling of collection items

Participation in excess loans

Investment counseling

Safekeeping

Exchange of credit information

Data processing services

Personnel training in specialized areas and placement of personnel

Consultation on operations procedures and forms

Trust services

Referral of accounts

Assistance in foreign transactions and Letters of Credit

Personal services for officers, employees and customers

Federal Funds Market

Master Charge (Agent)

GX 216
IDENTIFICATION
OFFERED
RECEIVED
EXCLUDED
WITHDRAWN

GX-216

THE BANK DIRECTOR

his duties and responsibilities

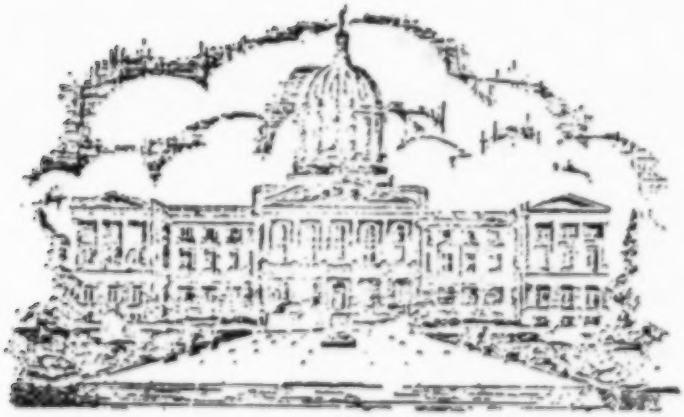
LESTER MADDOX,
Governor

W. M. JACKSON,
Superintendent of Banks

E-269

THE BANK DIRECTOR

his duties and responsibilities



STATE OF GEORGIA

E- 270

CONTENTS

	Page
Foreword by Governor Lester Maddox	3
Preface	4
Care and Diligence	5
Statutory Provisions	
Directors' Qualifications	7
Directors' Meetings	7
Directors' Borrowings	8
Statutory Liabilities	8
Loan Limitations	9
General Loan Supervision	10
Investments	11
Cash Reserves	11
Real Estate	12
Directors Should Direct	
Overall	13
Board Committees	13
The Individual Director	14
Board Functions	16
Directors' Meetings	17
Loan Policies	17
Investment Policies	19
Trust Department	20
Personnel	21
Earnings, Expenses, Dividends	23
Audits and Controls	25
Bankers Blanket Bond Coverage	31
Credit Life Insurance	32
Directors' Examinations	32

E- 271

FOREWORD

My congratulations and best wishes are extended to bank directors, those citizens of Georgia who have been complimented by being elected to positions of high trust and honor in their communities. Election as a bank director implies the highest confidence of the stockholders in the citizen's integrity, business morality, ability, responsibility and public trust.

This booklet has been compiled by the Department of Banking for the use of directors of State chartered banks. It contains a digest of the laws relating to election and duties of directors and of those governing a bank's operations. It is hoped that it will be of benefit to the newly elected director and of interest also to the experienced director.

It does not purport to be all inclusive on the subjects presented, but points out the basic principles of directors' responsibilities and covers some questions with which directors are most frequently confronted.

LESTER MADDOX
Governor

March, 1967

E-272

PREFACE

This booklet was prepared by the Department of Banking from material gathered and experience gained over the years. There have been similar publications on the subject of directors' duties and responsibilities. The need, however, was felt for a presentation based on court decisions and statutory laws directly governing the approximately 338 banks chartered by the State of Georgia.

The emphasis placed on the prerogatives of directors, as such, as distinguished from those of executive officers of their banks, should not be taken as a reflection on the latter. Rather, it is believed, the level of competence, conscientiousness, knowledgability and devotion to duty among Georgia bankers is higher than ever before and compares favorably with those of other jurisdictions. It is further believed that bank officers recognize that their effective operations are greatly enhanced by directors who are well informed and appreciative of their duties and responsibilities.

W. M. JACKSON,
Superintendent of Banks

E- 273

CARE AND DILIGENCE

To be selected by the stockholders of a bank to serve as a director is an honor. It implies confidence on the part of the stockholders in the ability and integrity of the individual so selected. Moreover, it reflects the reputation of the individual as successful in his own affairs, as public spirited, and as entitled to confidence in the care of funds entrusted to the bank by the depositors.

To accept the honor fixes legal responsibilities to exercise ordinary care and diligence in the administration of the bank's affairs. Any failure to exercise this degree of care and diligence which results in losses to the bank or its depositors gives rise to a cause of action for the losses sustained.

Here are a few Georgia court decisions which illustrate this point:

"The general rule in this State is that directors of a bank must exercise ordinary care and diligence in the administration of its affairs. The active management of the bank may be delegated to certain officers authorized to manage its business. The directors, however, must exercise a reasonable supervision over such officers." (Woodward vs Stewart, 149 Ga. 620)

"A director of a bank has duties to perform more essential than that of allowing his name to be printed on the bank's stationery, and negligent ignorance is sometimes equivalent to knowledge." (Marietta Trust Company vs Faw, 31 Ga. Ap. 508)

"Unfortunately, some directors appear to think that they have fully discharged their duties by acting as figureheads and dummies; but this is a mistake, and a delusion from which some of them are now and then awakened by a judgment for damages arising from allowing the corporation to be looted while they sat negligently by and looked wise." (McEwan vs Kelly, 140 Ga. 720)

"If by reckless inattention to the duties confided to them by their corporation, frauds and misconduct are perpetrated by officers, agents, and co-directors, which ordinary

care on their part would have prevented, then I think it may be said with truth that it is now elementary law to be found in all the books, that directors are personally liable for the losses resulting." (From a Federal Case cited in Shannon vs Mobley, 166 Ga. 430)

These decisions are not based on statutory laws of the State, but upon the view of the common law that a bank director is a trustee and responsible for using, in good faith, ordinary care, diligence and prudence in administering the bank. This does not mean that directors are held to the highest degree of care and diligence, nor that they can be held liable for every loss or for errors of judgment. Banks sustain losses at times when there is no lack of diligence, care or prudence. The important thing is that the director be informed and that he use judgment in the decisions he is required to make, even though his judgment was wrong but reasonable under the circumstances then present. The courts have never gone so far as to require the highest degree of judgment. They recognize that directors are mortals.

Instances that have resulted in judgments against directors are failure to attend directors' meetings; ignorance of the condition of the loans or other assets of the bank; acquiescence in violation of legal loan limits; failure to create committees called for by the bylaws and to see that they function; failure to take action for the bank's best interests against borrowers; failure to investigate and deal with questionable acts on the part of officers and employees; and failure to require proper bond coverage on officers and employees. There have been many more, but all were instances of failure to exercise ordinary care, diligence and prudence.

There should be added this observation pertaining to Federal Deposit Insurance. When a bank closes and the Federal Deposit Insurance Corporation makes payments of insured amounts to depositors, the Corporation, by law, becomes subrogated to the rights and claims of the depositors against the bank. These include any rights that may develop against directors of the bank for losses considered due to their failure to exercise care and diligence required by law in the operation of the bank. These rights are freely asserted by the Corporation when investigations covering a period of years prior to the closing indicate lapses in prudence, diligence, and care on the

E-275

part of directors. Bank failures since 1933 have been comparatively few and most of them have resulted from defalcations or embezzlements in amounts exceeding the surety coverage provided. Some of these cases have gone to court while others were negotiated and settled out of court, resulting in recovery by the Corporation of some millions of dollars from directors.

STATUTORY PROVISIONS

Directors' Qualifications

As regards directors, the Banking Laws of Georgia specifically require that:

Every director be a citizen of the United States; at least 60% of the board be citizens of Georgia and residing in the city or town where the bank is located or within 40 miles. Every director own in his own right, unpledged and fully paid for, capital stock of the bank of at least $1,000 par value; except that if the capital stock does not exceed $25,000, the minimum par value to be owned is $500.

Directors be elected annually at meetings held at times fixed by the bylaws; the number of directors be not less than three nor more than 25, the actual number fixed by resolution of the stockholders at an annual meeting and remain so fixed until changed in like manner; vacancies occurring between elections be filled by the board of directors.

Each director, when elected, take an oath that he will, so far as the duty devolves upon him, diligently and honestly administer the affairs of the bank; that he will not knowingly violate or willingly permit to be violated, any of the banking laws or the bank's bylaws; and that he is the owner in good faith, and in his own right, stock of the required par value standing in his own name on the books of the bank.

Directors' Meetings

As regards meetings of boards of directors, the banking laws specifically require that:

Regular meetings be held at least monthly at such times as fixed by the bylaws; special meetings be subject to call

E-. 276

by the president or any two members of the board; a majority of the members constitute a quorum for the transaction of business; correct written minutes be kept in well-bound permanent books signed by the chairman and secretary of the board and showing the names of the directors present; minutes of the preceding meeting be read, corrected and approved.

The board of directors, at first meeting after the annual election, elect one of their members president, also elect one or more vice-presidents, a cashier and such other officers as provided by the by-laws or as required for prompt and orderly discharge of the business of the bank.

The board of directors fix the amount of bond to be given with a qualified surety company by all officers and employees having custody, control or handling of the bank's funds, the amount to be subject to approval by the Superintendent of Banks.

Directors' Borrowings

The Georgia Banking Laws restrict borrowings from the bank by its directors, officers or employees.

No director, officer or employee of a bank may borrow from the bank, directly or indirectly, for himself or any firm or partnership of which he is a member, without the express written approval of a majority of the directors or an authorized committee of the board. Such a borrower may not participate in any way in passing on any loan or discount in which he may be interested.

No bank shall lend to any of its directors, officers or agents any amount except on good collateral or other ample security.

Statutory Liabilities

The directors of any bank who shall approve or permit any loan to be made in excess of the limit fixed by law shall be personally and individually liable and responsible to the bank for such loan if it is not paid by the borrower. Any director not in favor of such loan may have his dissent or disapproval recorded in the minutes of the meeting at which such loan is authorized, or at the next meeting held

after he has discovered it to have been made, and be relieved of personal liability.

Every president, director or other officer "shall be deemed to possess such a knowledge of the affairs of the bank as to enable him to determine whether any act, proceeding, or omission is a violation of the charter." (Sec. 13-9913). If he is present at the meeting when the violation occurs, he is deemed to have concurred in it unless his dissent is entered in the minutes. If he was not present, but remains on the board for three months and does not within that time require his dissent to be entered in the minutes, he is deemed to have concurred in the violation.

Any director who participates in declaring a dividend, except from the net earnings, or in other misuse of its capital funds, has responsibility under the criminal laws. The same is true of a director, officer or employee accepting a fee, commission or gift for obtaining a loan from his bank.

Loan Limitations

No bank is allowed to lend to any one person, firm or corporation more than 20% of its capital and unimpaired surplus. There are exceptions to this rule involving discount or purchase of commercial paper, advances against commodities or products having ready sale in the open market, loans fully secured by obligations of the United States or State of Georgia and loans covered by commitments to take over made by the United States Government or any agency thereof. This is all dealt with in Section 13, Article 19 of the Georgia Banking Law which is interpreted and clarified by regulation of the Superintendent of Banks.

Loans exceeding 10% of the capital and surplus must be fully secured and have the prior written approval of the board of directors or duly authorized loan committee. An exception to the requirement of full security is made in the case of loans to a county, municipality or political subdivision authorized to levy taxes or to a county board of education extended under certain provisions of State laws.

In figuring whether loans to any one person exceed either the 20% or the 10% limitation of capital and surplus, all loans made to the person and to firms and partnerships of which he is a member are included.

There are special provisions of the law relating to loans on real estate. These are contained in Section 15, Article 19 and are interpreted and clarified by a regulation of the Superintendent of Banks. The basic provisions are that not more than 50% of the market value of the underlying real estate can be loaned by a commercial bank, except that 75% of the market value may be loaned on basis of a regular amortization; and that the aggregate amount of real estate loans may not exceed the total of savings and time deposits or the total of capital and surplus whichever is greater. Loans insured, guaranteed or committed by Government agencies, construction loans and loans made for business purposes and not exceeding $3,500, are excluded from the limitation as to total.

General Loan Supervision

The fact that directors' prior written approval is required only on loans exceeding 10% of capital and surplus and on loans to directors, officers and employees, should not give rise to the thought that all other loans can be properly left entirely to the consideration and judgment of the loan officers. This is what the court said:

> **Loans of less than 10%** — "As to loans of less than 10%, which under the rules and regulations of the bylaws might be made by designated agents and officers of the bank, it is nevertheless incumbent upon the directors in the exercise of ordinary care and diligence, to retain a general supervision over the acts and doings of such agents and officers in making such loans, and to keep sufficiently informed about them to enable them to pass intelligently on the value of such loans and the condition of the bank which they are charged with supervising. Accordingly, directors are not justified in absolutely relinquishing to any officer or agent unlimited discretion, and thereafter acquiescing blindly in all that he does, but under the general duty devolving upon them to manage the bank's affairs, they must retain and exercise reasonable control and supervision over such officers, amounting to the exercise on their part of ordinary care and diligence. Thus should it appear that the directors had absolutely surrendered and relinquished their control and supervision . . . in the making of such loans, there would be a failure on their part to perform the functions devolving upon them by law,

E-279

which would necessarily amount to a lack of ordinary care and diligence on their part as directors." (Mobley vs. Faulk, 42 Ga. Ap. 314)

Investments

Banks, except for those doing a savings business only, are prohibited from investing in stocks. There are exceptions granted in the case of stock of the Federal Reserve Bank of Atlanta, of an agricultural credit corporation organized under special laws of the State, of a small business investment company organized under Acts of Congress, or of a subsidiary corporation organized to own banking premises.

Banks may invest without limitations in obligations of the United States and those guaranteed as to principal and interest by the United States; in obligations of the State of Georgia and those of State Authorities secured by leases with the State or a Department thereof; or in obligations of Federal Land Banks, Federal Home Loan Banks, Federal Intermediate Credit Banks and those of five U. S. Government-organized Credit Corporations which are specifically designated in the Banking Law. Investments in Water and Sewer Revenue Certificates of Georgia Cities and Counties are subject to the 10% limitation of a bank's capital and surplus for the obligations of any one obligor. The 10% limitation also applies to obligations of U. S. Government Corporations not guaranteed as to principal and interest by the United States. Investments in general and direct obligations of political subdivisions of the State of Georgia are subject to the limitation of 25% of capital and surplus for the obligations of any one obligor. These limitations do not apply to banks with capital and surplus of over $1,000,000. Other than the above, banks are restricted in their investments to those classed as "Investment Securities" as defined by regulation of the Superintendent of Banks and the total amount of such securities may not exceed 50% of the bank's capital and surplus. This limitation does not apply to banks with capital and surplus of over $1,000,000.

Cash Reserves

A bank is required to maintain a reserve of 15% of its total demand deposits and 5% of the amount of its savings and time deposits. Reserve funds may consist of currency on hand and moneys on deposit subject to call with other banks ap-

proved as depositories by the Superintendent of Banks. However, the reserves against savings and time deposits may consist of bonds of the United States or the State of Georgia at the market value thereof. A bank that is a member of the Federal Reserve System may, in lieu of complying with these rules, keep such reserves as are required of it as a Federal Reserve Member. The Superintendent of Banks has issued regulations clarifying the rules for computing required reserves.

The Banking Law provides that if a bank's reserves fall below the level required, it is unlawful for the bank to make any new loan or declare a dividend. Further, if the Superintendent of Banks notifies a bank whose reserve is short of the requirements to make good such reserve, and, if the bank fails within 30 days to do so, the Superintendent of Banks may take charge of the business and assets of the bank.

Real Estate

A bank may acquire real estate only for banking house purposes or in satisfaction of debt previously contracted. That acquired in satisfaction of debt must be disposed of within five years unless the period is extended by the Superintendent of Banks.

As to real estate acquired for banking house purposes, the amount, including furniture and fixtures, may not exceed 50% of capital and surplus, except that the Superintendent of Banks, upon application, may allow a greater sum invested.

Investment with the approval of the Superintendent of Banks in all of the capital stock of a subsidiary corporation holding the bank's banking house property is considered as banking house investment. But the amount so invested, along with the bank's direct investment in land, buildings and furniture and fixtures, may not exceed 50% of capital and surplus, except with the approval of the Superintendent of Banks.

DIRECTORS SHOULD DIRECT

Overall

It is true that most bank directors are principally occupied with their own businesses. Except for those few who are also active officers and paid for their full time, they can spend only limited time at the bank. They cannot be expected to see to details for the bank's operations, but they are bound to know what goes on generally without impeding the executive management in carrying out its duties. Directors should direct and set the policies and executive management should execute the policies and carry out the details.

Although, as we have seen from the court decisions, a director can be held individually liable for lack of care and diligence, a board of directors should act collectively in setting policies and in supervision of the active management. The directors, as a board and as equals, derive their authority from the stockholders and should act as a board and not as individuals in carrying out such authority. Proper procedure requires that this be done at meetings of the board and as the result of decisions made there by a majority.

Board Committees

As a practical matter, it is advisable for the board to appoint committees of the board to carry out specific functions. As a minimum in a small bank, there should be a Loan Committee, an Investment Committee and an Examination Committee. The number of committees increases with the size of the bank, the diversity of its activities and added departments; for instance, a trust department.

The Loan Committee can be given authority to pass upon loans exceeding 10% of capital and surplus; to loans to directors, officers and employees of the bank; and to such other loans of amounts and types as the board sees fit. Approvals and disapprovals should be in writing and a report of the actions taken should be made to the board at each meeting and made of record in the minutes. The Loan Committee or any

E- 282

individual member can take over the making of appraisals of real estate and other property offered as security to loans. All appraisals, whether made by the Loan Committee, an individual member or an outside appraiser, should be in writing and placed with other papers pertaining to the loans. It is to be hoped that the appraisals be realistic and not tailored to fit the size of the loan applied for. Needless to say, every loan application should be considered in the light of the restrictions imposed by the State Banking Law as previously outlined; also of general policies of the board as regards loans. The Loan Committee can also function with the Examination Committee in making board examinations of the bank whether such examinations are made by board members, the bank's auditors or outside auditors employed to make examinations. Further, it is very beneficial for the Loan Committee to be present at loan reviews made by State and Federal Examiners in their examinations of the bank.

The Investment Committee should oversee the bank's investment account, approve purchases and sales of securities and periodically consider whether investment holdings are in line with the bank's need for quality, safety, liquidity, income, secondary reserves and tax considerations. The relative size and composition of the investment account varies greatly from bank to bank, depending on the type of community, proportion of deposits in time and savings, availability of good loans, degree of liquidity and turnover in the loan account, and seasonal and other fluctuations in the demand deposits.

Both committees discussed above should, of course, keep in mind the statutory restrictions as to types and amounts permitted for the loan and investment account; also the policies set by the board.

The Examination Committee will be discussed further on.

The Individual Director

A great number of bank directors, when they are first elected, have no technical knowledge of banking and feel that they must depend on someone who does. This should not become a habit. The managing officer of the bank, if he is the right kind, wants directors who are thoroughly familiar with the bank's affairs and will take active part in making policies and decisions. It makes his work easier and lightens his ten-

sions. It helps to keep the bank progressive, sound and profitable.

A man selected to be a bank director should have a background of successful business experience, preferably experience with credits. He should have ideas of his own and backbone to express them. He should have available time for the bank. Sometimes the director gives too much weight to the prestige he achieves by becoming a director. Sometimes the bank gives too much weight to the prestige it achieves by adding prominent names to the board. Many professional men do not make good directors, however high they stand professionally. They do not have the time and many do not have the needed background of business experience. A man should not be selected as a director if he is likely to embarrass the bank with his own borrowing requirements and those of his business interests. A director ought to have enough stock in the bank to have a stake in its successful operation. But control by a very small group, one man or one family, is not always good. Very often it is good until illness or death brings about changes that turn out badly. Also, some boards are too large. This usually results from efforts to obtain business in a strongly competitive situation. If there are too many directors, the board is hard to organize, to keep interested in the bank's affairs and working out real decisions. It may be hard to get a quorum for meetings. A bank needs a working board if it is to achieve its proper place in the community, but the work should consist of much more than getting business for the bank, though that is important, too. Generally speaking and summarizing somewhat:

1. The director should have thorough knowledge of the duties and responsibilities of his office.

2. The director should have a genuine interest in his office, attending all meetings regularly and keeping well informed of the affairs of his bank at all times.

3. The director should be well known and respected in the community, with unquestioned reputation for integrity.

4. The director should give undivided loyalty to his office and not loyalty split with some interest adverse to the bank.

5. The director should possess the integrity not to use his office for personal benefits through information gained by virtue of his position.

6. The director should be capable of retaining confidences and refrain from divulging confidential information gained through his position.

7. The director should be a successful businessman in his own right and a leader in the community, as demonstrated by affiliation with such community projects as growth, development, civic and religious affairs.

8. The director must be capable of recognizing facts as distinguished from prejudices or personal interest in reaching sound, independent decisions.

9. The director should be capable of distinguishing between policy matters and management matters and be willing to refrain from entering into management functions.

10. The director should not lose sight of his primary responsibility, which is to protect the depositors who have placed their trust in him.

Board Functions

1. Appoint officers, designate their duties and fix salaries; appoint the chairman and secretary of the board. Designate the committees of the board; decide on fees for board attendance and compensation for committee members devoting considerable time to their duties.

2. Set the amount of bankers blanket bond coverage and periodically consider the adequacy of coverage of fidelity, burglary, robbery and other risks.

3. Set policies and standards for loans and investments.

4. Fix interest rates to be charged on various types of loans and those paid on time and savings deposits.

5. Consider earnings, expenses, losses to be taken, bonuses, dividends, transfers to surplus, adequacy of capital funds, adequacy and suitability of banking quarters.

6. Set procedures for verification and evaluation of assets, proof of deposits and other liabilities, control of earnings

E- 285

and expenses, whether by the board, a board committee, an inside auditor reporting directly to the board, or an accounting firm making periodic audits.

7. Consider and take measures for management succession to assure adequate replacement of officers dying or retiring.

8. Consider advisability of setting up pension benefits for retiring officers and employees, also contributing to life insurance and health insurance programs.

9. Take measures to insure good public relations, consider advertising services; contribute to civic welfare and financial progress and development.

Directors' Meetings

Performance of directors cannot be adequate if they are uninformed or if they tend to defer unduly to the chief stockholders or the managing officers; or if there is not an orderly and systematic program adopted for directors' meetings. Under these circumstances, board meetings are apt to take on the character of social gatherings, while the executive officer is left free and perhaps encouraged to assume prerogatives of the directors and make all policies and decisions and carry them out.

To an extent, this can be avoided if a regular program is followed at all meetings. The procedure should include reading and approving minutes of the preceding meeting; receiving reports of committees and individual directors; receiving reports of the bank's condition with analysis and comparison with condition at previous dates; having report on overdue loans and other loans of doubtful collectibility, slow loans, large loans, loans to directors and officers and all loans made since the previous meeting; reviewing securities transactions in the investment account; having report and analysis of bank expenses and income; considering and taking action on reports of examination and correspondence from the examining authorities and other matters such as listed under "Board Functions" above.

Loan Policies

Bank credit, like a stream of water, should flow and not stagnate. To be sound, loan policies should be set with the view of having every loan that is put on the books get off the books

E- 286

by a time that is mutually understood and agreed upon between the borrower and the lender. What is the purpose of the loan? How are the proceeds to be used? Where is the money coming from to repay the loan? Is the project practical, is it sensible and does it represent good judgment? Is there some margin for error or miscalculation or bad luck so that the bank may still get its money back if things don't go just as projected? With every approved loan application, there should be good answers to these questions.

Assuming that the good answers are there, there still is the matter of supervising the loans and seeing them paid. Loans that were well made can deteriorate and become problems if renewed time after time as a matter of habit. Bank credit is not properly used to furnish capital for the borrower. It can only be soundly used to meet the present specific needs of the borrower who will be able to repay from his earnings or proceeds of contemplated transactions.

The board should form a policy as to the limit of total loans in relation to total deposits with consideration, too, of totals of demand deposits and time and savings deposits and degrees of fluctuations in each. There have been cases of acute embarrassment where banks confronted with increased loan demands, undertook to meet them and found themselves seriously over-loaned. Sometimes this was done without consideration of the volume of work the officers and employees were equipped to handle, the result being overall deterioration, stagnation and development of large losses.

Loan policies should also define limits as to various types of loans which it makes, real estate loans, automobile loans, business loans, and personal loans. Quality and safety in bank lending has been greatly improved through the still growing tendency to place all loans possible on a regular installment basis for repayment. Properly administered, this system gives the bank flexibility in raising or lowering its loan volumes and gives greater margins of safety. It also helps the borrower who has brought to his mind the necessity to apply monthly a set portion of his income to reduce the debt.

Banks considering going into new types of lending on a considerable scale, should look into proper methods and standards of setting up and administering such a program. Take for example automobile purchase loans. In many cases, banks have

E- 287

leapt into this field without any particular plan, without standards and lacking trained personnel and systems of records and supervision. The results have been bad and particularly so in those banks which purchased paper from dealers without investigating the credit quality. The bank's city correspondent which has the benefit of having the bank's reserve funds on deposit, will gladly furnish expert help in setting up a loan system.

Credit files should be maintained on borrowers, particularly in connection with sizeable unsecured loans. Current financial statements should be on hand when the loans are applied for; also operating statements in the case of business concerns. They should be kept up to date. Judgment of a loan application can be no better than the information at hand. General knowledge of a borrower is no substitute for a detailed statement of his assets and liabilities and can be faulty and misleading.

While conservative loan policies are to be held and carried out, this does not mean that reasonable risks should not be taken. Lending operations involve risks that are necessary in properly serving the community and losses should be recognized when they occur. There have been cases where refusal to meet reasonable local credit needs have resulted in successful moves to organize new banks in competition. In one such case the managing officer, a majority stockholder of the existing bank, had been in the habit of boasting that he had not had a loan loss in the twenty years or so that he had been in charge. With the bulk of the bank's funds carried in government securities, about all he had to offer was a safe place for deposits. And while a safe place for deposits is a fine thing, it does not take care of other needs just as important.

Transfers to a reserve for loan losses account can, to a certain extent, be made free from income taxes. This should certainly be taken advantage of, with all realized losses promptly charged to the reserve account. There should be some recoveries to re-credit to the account and with this in view, the charged off loans should be carried in a separate ledger and kept under review for collection efforts.

Investment Policies

No less than with loans, a bank's investment policy is the responsibility of the board of directors though authority for

E- 288

specific transactions may be delegated to the Investment Committee and officers in charge of investments.

The size of the investment account represents what is available for investment after deducting loans and discounts, cash reserves and fixed assets. A portion of the account should be designated as secondary reserves and invested in highly liquid securities that can be quickly turned into cash with minimum risk of market loss. These consist usually of U. S. Treasury obligations maturing in less than a year. The amount of secondary reserves to be carried will vary with the ratio of demand deposits to time and savings, the degree of liquidity in the loan account and seasonal variations.

The remainder of the investment account can be placed in quality securities of longer maturities and higher yields. The maximum maturity is a matter to be determined and set forth in the investment policies of the board. The maturities should be spaced over the years more or less evenly. Then in the normal course, if the maximum maturity is, say ten years, approximately a tenth of the total will mature each year and be converted to maturities within the maximum.

It is not intended to suggest that ten years is the ideal period to be set for maximum maturities, either in general or for the individual bank. It will depend on a number of factors such as the amounts of cash reserves and secondary reserves normally carried, the degree of liquidity in the loan account, proportion of time and savings to total deposits and yield requirements for paying interest on time and savings deposits, to name some.

Management of a sizeable investment account, to get the best results, requires skills and knowledge of the money market not ordinarily present in smaller banks. For this reason, it is recommended that the bank have investment counsel in setting investment policies and also in individual transactions. Such expert counsel can usually be obtained from the bank's city correspondent which has the benefits of being the bank's depository.

Trust Department

A soundly managed trust department calls for a high degree of legal and technical competence. The amount of work

E-289

detail and the costs are such that the department loses money unless a large volume of trust business is available. Some smaller banks feel they are losing deposit business by not being in a position to accept trust accounts and are inclined to undertake to qualify. Before doing so, both sides of the question should certainly be investigated. Consult your city correspondent bank. There may end up an arrangement to direct local trust accounts to the corresponding bank, with the local bank acting as intermediary, carrying out local contacts and getting the deposit business associated with the accounts.

Personnel

The board of directors, as elected by the stockholders, constitutes the bank for all legal purposes. The directors are responsible to the stockholders, to the depositors and to the regulatory authorities to see that the bank is operated with prudence, diligence, care and a reasonable degree of ability.

The directors elect the president and the other officers, but ordinarily delegate authority to the officers to select the other personnel. The latter, however, are also employees of the board and accountable to it. The directors should, therefore, take an interest in the bank's personnel.

In numerous embezzlement cases, it developed that the embezzler had been living high, had been gambling, had been speculating or had been leading an immoral life. All of these created personal financial problems and in some cases, brought on blackmail. In small communities where many of these cases arose, it should have been simple and easy for the directors to know that all was not well with the individual and to take steps to develop the full facts. In larger banks, the personnel officer can take steps to keep well enough posted on the personal life and habits of employees to know of any serious financial and other problems.

The directors should see to it that the bank pays salaries that compare favorably with those elsewhere in the area for similar kinds of work. The best people available should be employed and promotions should be on the basis of performance rather than family relationships.

There should be a set policy for annual vacations for all personnel. Banking authorities are in agreement that each officer and employee should be required to be continuously

absent from the bank's premises for a minimum period of two consecutive weeks each year. Aside from the well-being of the individual, this is also an important item in safeguards against manipulation of customers' accounts.

To promote incentive, well-being, good morale and the feeling of security, banks now offer a variety of fringe benefits to officers and employees. These are mainly retirement plans, medical and hospitalization programs and life insurance. These can be provided outright by the bank or a share of the cost contributed. Health and life insurance can be set up on a group basis with cheaper rates than to an individual. As to retirement or pension plans, these can be set up on a collective basis. A bank with small or medium number of employees can well consider using the services of the trust department of its city correspondent in devising the plan and operating it.

Along with the other benefits of the establishment of a retirement plan, there will be included the fixing of the mandatory retirement age for officers and employees. This has been a difficult and touchy matter in many banks and left unsolved, with the result that they have continued under management which had passed the age of energy and effectiveness.

While on the subject of retirement, there should not be overlooked the need for directors to retire gracefully from active participation at a certain age and make way for selection of active and vigorous successors. There can be set up an arrangement whereby the retired members continue their association by being designated "Honorary Director" or "Advisory Director", attending such board meetings as they wish, but having no vote.

Banks can greatly benefit by providing officers and employees the advantage of education along banking lines. The American Institute of Banking has chapters set up in several Georgia cities where courses are offered those who can attend classes in person. The same courses, and more besides, are given by the Institute by correspondence from New York. These courses are specialized by subject and cover the entire field of banking. Graduate study is provided at the Graduate School of Banking at Rutgers University in New Jersey, and at the School of Banking of the South at Louisiana State University. Enrollment in these graduate schools is for two weeks each summer over three years.

The Georgia Bankers Association sponsors the Georgia Banking School at the University of Georgia. Enrollment is for one week each summer over three years. The School offers a special opportunity for Georgia bank personnel. Considerable attention is devoted to development of the executive viewpoint in the student, as well as to practical instruction on banking operations. The objective is to give a training experience bridging the area between American Institute of Banking and the graduate banking schools.

Earnings, Expenses, Dividends

To be sound, a bank must be profitable in its operations. Directors should be very much concerned with a reasonable return to shareholders, and this involves consideration of operating income, expenses, net income and their interrelation. After provision for adequate cash reserves, all available funds should be kept in use. Aside from interest and discount income, there are other important sources which are overlooked. Rather, they are ignored because it has been the practice for so long to furnish the services free; and either through inertia or fear of customer attitudes, nothing has been done about it.

The principal one of these overlooked sources of income is service charges on checking accounts. Personal checking accounts that are active, carry no balances of consequence and are sometimes overdrawn, involve considerable expense to the bank. A reasonable system of service charges should be imposed against these accounts with the aim that either they be put on a profitable basis or be closed out. Then there are checking accounts of business firms that draw dozens or hundreds of checks each month and deposit a volume of checks on out-of-town banks but draw on the proceeds before they can be collected by the bank. As the result, the bank is actually advancing money to the depositor though no overdraft is shown on the books. There is always the danger, too, that out-of-town checks may be returned unpaid, leaving the bank holding the bag. Active business accounts, involving little or no actual collected balances, should have service charges imposed that will compensate for the bank's costs.

A service charge system charges the depositor proportionately to the activity in the account with charges offset in part or in full in proportion to the balances maintained in the

E-232

account. Official statistics show that all banks in the nation on the average collect 5½% of their operating revenue from deposit account service charges. Banks that have not set up service charge arrangements or that need to improve the arrangements they have, should consult their city correspondent bank for help and advice in devising a system that is fair to the bank and the customer alike.

Other leaks from legitimate income or absorbed costs are in the fields of collection fees, payroll services and safe deposit box rentals. There are no doubt others to be found by investigation.

Proper board supervision calls for careful scrutiny of all expenses. The largest item is salaries, which should be adequate to attract and hold good people but in line with the services rendered by each individual. Interest on time and savings deposits is the second largest outlay in many banks. Aside from the legal limits imposed by the supervisory authorities, determination of the rates to be paid should involve consideration of the opportunity for profitable employment of the funds, as well as competition with other institutions.

An important expense in bank operations is for occupancy, use and maintenance of banking quarters and equipment. Banking quarters can be adequate, suitable and dignified without being lavish. Some banks have tended to handicap their earnings potential unduly by tying up too great a proportion of their capital funds in fixed assets; while others have put out large sums without taking future growth and expansion prospects into consideration. As previously stated, fixed assets costs are limited by statute, but costs may be exceeded with the prior approval of the Superintendent of Banks. Where such approvals are given, they are conditioned on initial charge-offs of part of the costs or on agreement for annual special charge-offs over and above tax-allowable depreciation rates until book values are within the statutory limit. Sometimes there is a combination of initial charge-off and continued extra charge-offs. Banks contemplating new quarters in the foreseeable future would do well to set aside a fund from earnings with the view to its use in absorbing land and building costs and reducing the carrying values.

Taxes are, of course, an important expense item, particularly income taxes, though they vary from bank to bank. Some

E-293

banks are in position to minimize income taxes by leaning toward obligations of States, Counties and Municipalities in managing the investment account.

Other expense costs to be watched by the directors include office supplies, stationery, advertising, insurance, fees for legal and other services, dues and donations. Excessive expense charges for attendance at conventions, entertainment and the like should be guarded against.

Directors will find it of interest and benefit to compare the bank's operations as to income and expenses with those of other banks. This can be done by using the banking statistics published annually by the Department of Banking. These statistics afford interesting comparison between all Georgia State banks and your bank of percentage relationships of the various categories of income and expenses to total income.

Banks with capital funds on the low side, considering the volume of business, will do well to limit or omit cash dividends until the situation is corrected by addition of earnings. Those experiencing growth and having growth prospects should do the same. This might hit some stockholders as objectionable, but there can be explained to them the advantages to the individual stockholder of accumulating surplus to be later used for stock dividends. Stock dividends are exempt from federal income taxes, while cash dividends are not. It can be explained further that the alternative would probably be that they will be faced in the future with making cash subscriptions for new capital stock after having paid income taxes on the cash dividends over the intervening period.

As a final thought pertaining both to the bank's income tax liabilities and to the payment of dividends, all items on the bank's books that can be considered worthless or doubtful of collection, should be charged off before the close of each tax year and before declaration of each dividend. This is also a good thought for directors whose names appear on the bank's published statements.

Audits and Controls

Although official governmental examinations include some elements of audit and verification, they are not audits of the bank's operations. Their purpose is rather to determine whether the bank's assets are adequate to cover all liabilities

E- 234

and that all laws applicable to the bank and its operations are being observed. Bank directors cannot meet their duties and responsibilities in the field of audits and controls by reliance on governmental examinations, nor can they rely on fidelity bond coverage in this regard.

At the same time, it is true that many boards of directors do not include competent accountants. Also, in banks of size, it is not practical for directors to perform audits, considering the time involved, though directors with accounting experience can well represent the board as an Audit Committee to oversee audit functions.

Thus, it devolves on the directors of most small banks to have outside help — an accountant or a firm experienced in bank auditing.

Banks in some areas have grouped together to employ auditors on a revolving basis, thus reducing the expense. Also, some city correspondent banks regularly assist their small bank customers in audit arrangement and functions.

Although not preferable, an outside auditor can use personnel of the bank in performing some of the audit work. If this is done, it must be arranged that no individual undertakes to list, prove or verify records, property or transactions with which he or she has had connection and this is often not possible in a small bank.

Banks of medium size employ an inside auditor on a full time basis to make regular or continuing audits. Such an auditor is accountable to and makes regular reports to the board or the Examination Committee and not to the principal executive officer. In the large banks, the auditor becomes comptroller or manager of the Audit Department. Some banks, both large and small, add to this by employing firms of certified public accountants to make regular audits.

There follows a check list which is in use in examination reports made by the Georgia Department of Banking. It illustrates basic principles of routine safeguards but may not include all functions of any individual bank. It can be expanded or changed to fit the individual bank. The more "yeses" and the fewer "nos" that can be recorded, the better the safeguards. A "no" answer indicates an unsatisfactory condition which should be corrected and reference to such answers may be noted under "comments".

INTERNAL ROUTINE AND CONTROLS

DESCRIPTION	YES	NO
A. CASH		
1. Does bank provide each teller with separate cash for which he or she is solely responsible throughout each day?		
2. Does bank provide each teller with adequate vault space or strong box to which he has sole access?		
3. Is each teller required to maintain an ink-posted or machine-posted daily cash book?		
4. Is the cash of each teller verified at reasonably frequent intervals by another employee or officer without prior notice?		
5. Is vault cash under dual control and are safeguards adequate?		
6. Is it the bank's policy to show overdrafts, rather than to hold checks as cash items to prevent overdrafts?		
7. Is a satisfactory and permanent daily record of cash items maintained?		
8. Are all cash items approved by an officer of the bank?		
9. Is exchange received credited daily regardless of amount, rather than held in a "kitty"?		
10. Are teller differences transferred to general ledger daily?		
B. DUE FROM BANKS		
1. Is a permanent and adequate reconcilement record of correspondent bank accounts maintained?		
2. Are correspondent bank account reconcilements verified by another officer or employee?		
C. SECURITIES OWNED		
1. Is an adequate bond register maintained?		
2. Are purchase and sale invoices verified with book entries and filed?		
3. Are bond premiums properly amortized?		
4. Are custody safeguards adequate?		

DESCRIPTION	YES
D. LOANS AND DISCOUNTS	
1. Are loans and discounts proved at least monthly?	
2. Are satisfactory liability ledger records maintained?	
3. Are interest and discount calculations on loans rechecked for accuracy and traced to the general ledger by another person?	
4. Does bank maintain satisfactory collateral files with adequate safeguards?	
E. DEPOSIT LIABILITIES	
1. Are deposit ledgers periodically proved by persons who do not regularly post them?	
2. Are deposit ledger bookkeepers rotated?	
3. Are all employees prohibited from both receiving deposits and posting ledgers, except on key controlled posting machine operations?	
4. Are dormant accounts segregated and under control of an officer of the bank?	
5. Do entries to dormant accounts require the approval of an officer?	
6. Are deposit ledgers proved to general ledger at least monthly?	
7. Are statements issued regularly (at least semi-annually) on all individual accounts?	
8. Are employees rotated when preparing monthly statements?	
9. Are transfer and closed-out ledger sheets preserved and properly filed?	
F. OVERDRAFTS	
1. Is approval of an officer required?	
2. Is a satisfactory and permanent record of overdrafts maintained?	
G. GENERAL LEDGER	
1. Are general ledger and its subsidiary records satisfactory and sufficiently detailed?	
2. Are unlocated differences in all departments closed out daily through the general ledger?	

E-297

DESCRIPTION	YES	NO
H. CHARGED OFF ASSETS		
1. Are satisfactory records and control of charged off assets maintained?		
I. CERTIFICATES OF DEPOSIT, DRAFTS AND OFFICIAL CHECKS		
1. Are certificates of deposits properly handled?		
2. Are unissued forms properly safeguarded?		
3. Are checks certified handled in proper manner?		
4. Is proper register of all official checks maintained?		
5. Are they proved periodically and independently?		
J. EARNINGS AND EXPENSES		
1. Is distribution of income and expense properly shown on records?		
K. SAFEKEEPING		
1. Does bank accept items for safekeeping? If so,		
(a) Are satisfactory records maintained?		
(b) Are independent verifications made periodically?		
(c) Are proper receipts given and obtained?		
L. SAFE DEPOSIT BOXES		
1. Does bank maintain safe deposit box facilities? If so,		
(a) Is guard key to safe deposit boxes under bank's absolute control?		
(b) Are proper visitation records maintained?		
(c) Are customer and custodian present when box door is unlocked and relocked?		

DESCRIPTION	YES	NO
M. DIRECTORS AND AUDIT RESPONSIBILITIES		
1. Are directors meetings held as required by law?		
2. Do all directors attend meetings regularly?		
3. Does the bank have the full complement of directors, and does the number of directors conform with the by-laws?		
4. Are all directors legally qualified?		
5. Are the following accounts frequently examined by the board of directors, or committee thereof?		
(a) Expense Account?		
(b) Over and Short Account?		
(c) Overdraft Account?		
(d) Cash Items?		
6. Do the minutes indicate action noted under No. 5 above?		
7. Have the directors made provision for an audit program by either,		
(1) A full time auditor or staff?		
(2) Annual audit by CPA firm?		
(3) Supervised internal audit by the directors?		
If answer is affirmative, indicate the method by numeral, _____		
8. Does the bank employ a full time auditor? If so, is he accountable only to the board of directors?		
N. MISCELLANEOUS		
1. Does the bank have an enforced annual vacation program in effect?		
2. Are night deposits always opened in the presence of two employees?		

BANKERS BLANKET BOND COVERAGE

Protection against dishonest acts of officers and employees is afforded by coverage in a standard form of Bankers Blanket Bond which also insures against losses from burglary, robbery, theft, forgery and certain other risks common to financial institutions. Fixing the amount of the coverage is the responsibility of the board. In this regard, some assistance is provided by a schedule of minimum amounts as recommended by the Insurance and Protective Committee of the American Bankers Association. The schedule of minimum amounts is related to total deposits after study of loss experiences of banks. Many boards have fixed the amount of the coverage higher than the schedule amount. The fixing of a smaller amount than recommended for the size of bank might entail some personal risk of liability on the part of the directors, should a loss occur beyond the limit of the bond.

Several years ago, following a number of embezzlements of bank-breaking size, there evolved the Excess Bank Employee Dishonesty Blanket Bond, commonly termed "umbrella coverage", available if the bank has the minimum recommended or larger basic coverage as discussed above. With this bond, a bank acquires, at moderate cost, $1,000,000 dishonesty coverage over and above the basic coverage. No director anticipates dishonesty shortages of that range in his bank. At the same time, they do occur and, as often as not, they occur in small banks where, with "one man" domination, there is greater ease of concealment.

The standard forms of bankers blanket bonds all include one provision that should not be forgotten. It is to the effect that the bond becomes cancelled as to any employee "as soon as the Insured shall learn of any dishonest act on the part of such employee". Some years ago the directors of a small bank in Georgia learned that the Assistant Cashier had converted several hundred dollars of the bank's funds to his personal use. He replaced the funds by borrowing from relatives, was permitted to remain in his position, and no information of the

matter was given to anyone outside the bank. Several years later, the Assistant Cashier was detected short in a heavy amount. Claim was made against the surety company and, in its investigation of the shortage, the company learned of the previous shortage and denied liability for the large one. Thereupon, the Superintendent of Banks called on the directors to make good the amount and they did so, recognizing their responsibility for the loss. Had they not done so, it would have been necessary to obtain new capital funds from the stockholders or place the bank in liquidation.

In any case of misappropriation, however small, the offending employee must be relieved and the bonding company notified, whether claim for the loss is made or not. Violation of both federal and state criminal laws being involved, report should be made to the prosecuting authorities of each as well as to the Superintendent of Banks and the Federal Deposit Insurance Corporation or the Federal Reserve Bank of Atlanta if the bank is a member of the Federal Reserve System.

Credit Life Insurance

Credit Life Insurance has become rather prevalent in connection with bank lending in recent years. Through it the bank realizes payment from the insurance in the event of the borrower's death during the term of the loan. The Georgia insurance laws prohibit a bank from acting as insurance agent and this function usually devolves either upon an insurance agency affiliated with the bank or upon the loan officer who may be appointed agent by the insurance company.

No credit life insurance arrangements should be made except with the approval of the board of directors. If a loan officer acts as agent and personally benefits from the premiums or fees, it is to be hoped and guarded against that this will not affect his credit judgment, as has seemed to occur in a number of instances. Moreover, the board should require the officer-agent to report annually on the premiums realized, the amount to be taken in consideration in fixing his salary paid by the bank.

Directors' Examinations

These general suggestions are made in connection with examinations made by the board of directors, the examining committee, accountants under the direction of the board or a

E-301

combination of these. The suggestions are not all inclusive and represent a scope that would be modified by the size of the bank and types of operations; also by the extent considered feasible for detailed audit of individual transactions. Examinations should be made without the personnel of the bank having prior information as to the time of starting.

Cash should be counted and the total compared with the general ledger total or total shown by the balance sheet of the bank's assets and liabilities. Cash items should be carefully scrutinized and any improper items, such as unposted checks or other items held to conceal overdrafts, should be reported.

Due from Banks. The bank's last reconcilements of accounts with correspondent banks should be compared with the books and exceptions checked out. Requests should be sent to the banks for statements for the period from the last statement to about 10 days after date of examination, but showing balance also as of date of examination. The new statements can then be reconciled, with the 10-day period allowing for clearance of exceptions. It should be determined whether cash reserves meet requirements of state law or Federal Reserve regulations and whether such requirements have been habitually met.

Securities should be examined, totaled and compared with balance sheet totals. Those not on hand should be verified by receipts of the holders. Unless the receipts are unconditional as to time (require return of the receipt before delivery of the securities), the securities should be verified by correspondence. It should be ascertained whether the bank's holdings of securities, including any stocks, were legally acquired and are so held; and whether holdings are in accordance with investment policies set by the board of directors. An itemized list should be made showing book values compared with present market values.

Loans and Discounts. Notes should be added and the total compared with the balance sheet. Genuineness, value and security of each note and of the collateral thereto should be determined. Any items considered as losses or doubtful of collection should be noted. The liabilities of each of the larger borrowers, including endorser liabilities and liabilities of affiliated interests, should be totaled and considered as to conformance with law as to legal limitations and required approvals of the board

or the loan committee. Report should be made on the distribution of loans as to types and kinds of collateral and whether in accordance with loan policies set by the board. Lists should be made of all loans made to or endorsed by directors, officers, employees or their affiliated interests, and showing whether any are lacking required approvals of the board or loan committee. It should be noted whether all notes are made to the bank or properly transferred to it, whether collateral notes and securities are properly assigned, whether mortgages are recorded and whether insurance policies for the bank's protection are on hand with loss payable to the bank. All overdue loans should be listed and commented upon as to collectibility and any recommendations for handling.

Deposit Ledgers. Account balances should be added and totals compared with controls and the balance sheet of the bank's books. Overdrawn account balances should be compared with the overdraft record and the total of overdrafts shown in the balance sheet or shown as memorandum to the balance sheet. Extensive or habitual overdrafts should be noted and commented upon. Any estimated losses should be indicated.

Certificates of Deposit, Cashiers Checks, Money Orders. Paid and cancelled certificates and checks should be checked from the registers and amounts of those outstanding added and compared with respective totals shown on the balance sheet.

Income Accounts. If detailed audit of these accounts is not to be undertaken, there are nevertheless a number of test checks and reviews that are of value in forming opinion whether items of income are properly accounted for. For example, if an average interest rate can be estimated for the bank's entire loan portfolio, the average rate can be applied to the average total of loans over the past year and the result compared with actual collections of interest and discounts entered over the same period. The same can be done for categories of loans bearing different rates if they are carried under separate controls or the average totals can be estimated; for example, business loans, installment loans, mortgage loans. The same can be done with the investment account with sizeable purchases and sales during the year taken into account. If the bank is a non-par bank and deducts exchange in remitting for checks drawn on it, the rate of exchange can be applied

to total remittances for checks over a period for comparison with the book total shown for the same period. Service charges and collection fees should normally run steady from month to month though there may be seasonal variations, particularly in volume of drafts handled as regards collection fees. Again, as regards loan income, test checks can be made for any one day or longer period of time by identifying the loans made and loans paid during the period, computing interest and discount that should have been collected and comparing the amounts with those entered on the books.

Expense Accounts. Aside from a detailed audit, salary and other expense items carrying fixed rates can be figured over a period and results compared with expense account ledger figures. This is true provided the bank maintains a record of distribution of expense, as it should do. Other expense items should be supported by statements and should be examined with the view to determine that charges are proper. Interest paid on savings can be approximately computed by applying the savings rate to the total of savings accounts averaged over an interest period and the result can be compared with the amount entered for the period. The test for interest paid on certificates of deposit would need to be made differently, due to varying maturity dates. Also, if interest paid is all charged to one control and the bank has incurred interest costs for borrowed money, allowance would be made for these charges to the account. Entries made to the undivided profits account and "profit and loss" account should be examined and reported.

Direct Verification. No system of examination and audit can be complete without some measure of direct verification, both with the individual borrowers and the individual depositors. Manuals showing how this can be best and most easily accomplished, together with the forms to be used, are available through your city correspondent.

In General. Arrangements of the working affairs of the bank should be looked into and compared with the set of tests given above under the heading of Audits and Controls. The report of examination should include statement of any matters deemed to affect the solvency, stability and prosperity of the bank. The report should be presented to the board, noted in the minutes as to action taken, preserved in the bank's files and shown to state and federal examiners at their next examinations of the bank for notation in their reports.

E- 304